G.  R.

TRANSVAAL

REPORT

OF THE

LIQUOR COMMISSION

1908

PRETORIA
THE GOVERNMENT PRINTING AND STATIONERY OFFICE
1910

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COMMISSION BY HIS EXCELLENCY THE RIGHT HONOURABLE WILLIAM WALDEGRAVE, EARL OF SELBORNE, IN THE PEERAGE OF THE UNITED KINGDOM, A MEMBER OF HIS MAJESTY'S MOST HONOURABLE PRIVY COUNCIL, KNIGHT GRAND CROSS OF THE MOST DISTINGUISHED ORDER OF SAINT MICHAEL AND SAINT GEORGE, GOVERNOR AND COMMANDER-IN-CHIEF OF THE TRANSVAAL.

To

HARRY OSBORNE BUCKLE, Esquire.
Sir WILLEM VAN HULSTEYN, Kt., M.L.A.
RICHARD KELSEY LOVEDAY, Esquire, M.L.A.
GEORGE GLAESER MUNNIK, Esquire, M.L.A.
TIELMAN NIEUWOUDT DE VILLIERS, Esquire.

GREETING:

Whereas it is desirable to inquire into the working of the Liquor Laws of the Transvaal, and to make a recommendation on the following issues:—

(*a*) What amendments (if any) are desirable in the Liquor Licensing Ordinance (No. 32 of 1902) as amended by Ordinances Nos. 2, 17, and 68 of 1903, Ordinances Nos. 6 and 8 of 1906, and Act No. 9 of 1907;

(*b*) to what extent (if at all) the distillation in this Colony of spirituous liquors should be allowed, and, if allowed, whether only from the produce of the vine or from fruit or from any other produce, and under what conditions and restrictions;

(*c*) whether the existing statutory restrictions upon the supply of intoxicating liquor to coloured persons should in any manner be relaxed, and, if relaxed, to what extent, and whether in respect of particular kinds of liquor only, subject to the supervision and control of the Government;

(*d*) whether the Government or local authorities should be empowered to prohibit in any manner the sale of liquor in particular districts or areas in the Colony, and, if so, the extent of the prohibition;

(*e*) whether the sole and exclusive control over the supply of intoxicating liquor should, in any circumstances, be placed under the Government or local authority or of associations of persons formed to devote the profits made from the sale of such liquor to approved public purposes, and, if so, under what circumstances;

(*f*) generally.

And whereas it is expedient that for the purpose of such inquiry Commissioners should be appointed;

Now therefore I, the Governor aforesaid, by and with the advice of the Executive Council, do by this Commission nominate and appoint you, the said

Sir WILLEM VAN HULSTEYN,
RICHARD KELSEY LOVEDAY,
GEORGE GLAESER MUNNIK,
TIELMAN NIEUWOUDT DE VILLIERS,

to be the said Commissioners, and you, the said

HARRY OSBORNE BUCKLE,

to be Chairman of the said Commissioners for the purpose of inquiring into and reporting upon the matters aforementioned;

And I do hereby desire and request that you do, as soon as the same can conveniently be done, using all diligence, report to me in writing your proceedings by virtue of this Commission;

And I further will and direct and by these presents ordain that this Commission shall continue in force until you shall have finally reported upon the matters aforesaid, or otherwise until this Commission shall be by me revoked, and that you, the said Commissioners, shall sit from time to time at such place or places as you shall find necessary for the purposes aforesaid, and so proceed, although the proceedings may not be continued, from time to time by adjournment;

And I do hereby direct and appoint that you have liberty to report to me your several proceedings from time to time, and at such places aforesaid as the same or any part thereof may respectively be completed and perfected;

And I do hereby confer upon you the powers, jurisdiction, and privileges mentioned in the Commissions' Powers Ordinance, 1902;

And, lastly, I do hereby desire and direct that all Public Officers in this Colony, as well as all His Majesty's subjects, be assistant to you in the execution of these presents, by giving you all such information as it may be in their power to impart.

In witness whereof I have caused this Commission to be issued this Ninth day of October, in the Year of our Lord One thousand Nine Hundred and Eight.

SELBORNE,
Governor.

By Command of His Excellency the Governor.

JACOB DE VILLIERS,
Attorney-General.

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Report of the Liquor Commission

1908.

OUTLINE.

TO HIS EXCELLENCY THE RIGHT HONOURABLE THE EARL OF SELBORNE, P.C., K.G., G.C.M.G., GOVERNOR OF THE TRANSVAAL AND HIGH COMMISSIONER FOR SOUTH AFRICA.

PART I.—INTRODUCTORY.

MAY IT PLEASE YOUR EXCELLENCY:

Your Commissioners were appointed under Your Excellency's Commission, dated 9th October, 1908, public notice whereof was given by Government Notice No. 979 of 1908, under a reference requiring them to inquire into the following matters:—

(*a*) What amendments (if any) are desirable in the Liquor Licensing Ordinance No. 32 of 1902 as amended by Ordinances Nos. 2, 17, and 68 of 1903, Ordinances Nos. 4 and 8 of 1906, and Act No. 9 of 1907;

(*b*) to what extent (if at all) the distillation in this Colony of spirituous liquors should be allowed, and, if allowed, whether only from the produce of the vine or from fruit or from any other produce, and under what conditions and restrictions;

(*c*) whether the existing statutory restrictions upon the supply of intoxicating liquor to coloured persons should be in any manner relaxed, and, if relaxed, to what extent, and whether in respect of particular kinds of liquor only, subject to the supervision and control of the Government;

(*d*) whether the Government or local authorities should be empowered to prohibit in any manner the sale of liquor in particular districts or areas in the Colony, and, if so, the extent of the prohibition;

(*e*) whether the sole and exclusive control over the supply of intoxicating liquor should, in any circumstances, be placed under the Government or local authority or of associations of persons formed to devote the profits made from the sale of such liquor to approved public purposes, and, if so, under what circumstances;

(*f*) generally.

2. Your Commissioners invited evidence from the public at large by advertisements in the *Government Gazette* and in newspapers circulating in every district of the Transvaal; and from the following public bodies especially:—The Pretoria Municipality, the Transvaal Chamber of Mines, the Pretoria Chamber of Commerce, the Johannesburg Chamber of Commerce, the Johannesburg Chamber of Trade, the Rand Pioneers, the Mine Managers' Association, the Transvaal Land Owners' Association, the Transvaal Agricultural Union, the Witwatersrand Licensed Victuallers' Association, the Johannesburg and Pretoria Wholesale Liquor Merchants' Association, the Witwatersrand Bottle Storekeepers' Association, the Germiston Licensed Victuallers' Association, the Pretoria Hotel-keepers' Association, the Cape Wine Merchants' Association, the Social Reform Committee of the Witwatersrand Church Council, the Independent Order of Good Templars, the Independent Order of Rechabites, the Christian Endeavour Society, the Women's Temperance League, and the Transvaal Medical Council.

3. The above bodies gave evidence, with the exception of the Pretoria Municipality, the Transvaal Chamber of Mines, the Johannesburg Chamber of Trade, the Transvaal Agricultural Union, and the Transvaal Medical Council, which replied by letters set forth in Annexure 1. It is to be regretted that the Chamber of Mines declined to give evidence, as their opinion, if definite and united, must have carried great weight.

4. Your Commissioners have held 108 sittings, and have examined 307 witnesses, not only in the Transvaal, but also in the Cape Colony, the Orange River Colony, Natal, and the Province of Mozambique.

5. Your Commissioners are greatly indebted to the Governments of the other British Colonies in South Africa for the liberal assistance afforded to them in their investigations in those Colonies, and they desire especially to acknowledge the extreme courtesy which they have received from His Excellency Major A. Freire d'Andrade, Governor-General of the Province of Mozambique, and from the officials of the Portuguese Government.

6. Among the many public officers who have been of substantial assistance, your Commissioners would particularly mention Mr. A. T. Long, Transvaal Agent at Lourenco Marques; Mr. Percy Binns, K.C., Chief Magistrate at Durban; Mr. Charlie Henwood, Mayor of Durban; Dr. J. H. M. Beck, M.L.A.; Mr. E. E. Dower, Secretary for Native Affairs in the Cape Colony; Mr. J. A. Ashburnham, Resident Magistrate at Bloemfontein; Mr. Ludwig Wiener and his colleagues (members and secretary) of the Cape Wine Commission, 1909.

7. A certain amount of evidence was taken in private. The names of the witnesses giving this evidence and of all persons alluded to by them have been eliminated.

PART II.—RESTRICTIONS ON COLOURED PERSONS.

PART II.—RESTRICTIONS ON COLOURED PERSONS.

CHAPTER 1.—THE EXISTING LAW.

8. In dealing with every portion of our reference, we are constantly confronted by the difficulties arising from a mixed population. It is impossible to decide, for example, how the existing laws should be amended or under what conditions distillation can be allowed in the Transvaal without considering how far the native can be allowed access to alcohol. We therefore propose first to consider the question put to us under point (*c*) of our reference: "Whether the existing statutory restrictions upon the supply of intoxicating liquor to coloured persons should be in any manner relaxed, and, if relaxed, to what extent, and whether in respect of particular kinds of liquor only, subject to the supervision and control of the Government".

9. The existing position in the Colony is this. Everywhere the sale of any form of alcohol to the coloured races is absolutely prohibited. In the rural parts kaffir beer may be made and consumed, but not sold; but in towns and industrial areas even this is forbidden, and the only exception to absolute prohibition is that employers of more than fifty coloured labourers may supply them, gratuitously, with kaffir beer containing not more than 3 per cent. of alcohol.

10. It is clearly desirable that there should be, if possible, uniformity throughout the Union in dealing with this most important question. Therefore, no scheme can be considered satisfactory unless there is a reasonable probability that it will be accepted by the other Colonies as well as by the Transvaal; and we think it legitimate to consider not only the intrinsic merits of the various schemes proposed to us, but also the degree in which they approach the existing law of the other Colonies. We set out in Annexure 2, in a tabulated form, the restrictions at present imposed in each Colony upon the various coloured races in respect of

(*a*) kaffir beer;

(*b*) other intoxicating liquor.

11. It is worth noting that Cape Colony, which formerly allowed unrestricted sale to natives, has of late years tended towards increased restrictions; while Natal has recently substituted supervised sale of kaffir beer for the total prohibition which formerly obtained within the towns. The policies of these two Colonies are therefore tending to approximate. The best hope of obtaining uniformity lies in this direction: if South Africa is to come together, something must be given up on each side. Since the Transvaal Law is the most stringent in South Africa, its contribution towards any compromise must necessarily be some relaxation of restrictions.

12. It should also be observed that neither in Cape Colony nor in Natal are all coloured persons treated alike. In South Africa there are, for practical purposes, three classes included in this description—aboriginal natives, those persons of mixed blood to whom the term "coloured people" is more particularly applied, and pure Asiatics. (Throughout this report we shall in future use the term "coloured" in its narrower sense, as not including either the native or the Asiatic.) There is nothing very scientific about a classification which lumps together, for the purpose of liquor restrictions, the self-indulgent kaffir and the abstinent Indian; and we propose to consider these three classes separately, beginning with the native.

13. There is a fourth class, artificially created, which exists only in the Cape Colony—the native registered voter, who is there treated as a European. We have found no evidence that this class differs in any material respect from the unenfranchised class of native, and we do not propose to deal with it in any special way. Our remarks on the native generally must be taken to apply to all natives, voters and non-voters alike. In this connection we would call attention to the fact that in the Cape Colony the restrictions of the Innes Act have been largely defeated by the narrow definition of the term "native"; we wish it to be understood that, when in this report we speak of "natives", we intend to include, besides the kaffir, all persons of the Hottentot, Bushman, and Koranna type.

CHAPTER 2.—THE NATIVE.

Division 1.—The Necessity and Purpose of Control.

14. The first question is whether it is necessary to place any restrictions at all upon the native's use of liquor. As a general rule, interference with the personal habits of individuals is not desirable or justifiable unless the interest of the individuals in question or of the rest of the community requires such interference. Yet every South African Colony does, to a greater or less degree, restrict the native in his use of liquor, indicating a widespread opinion that the native races cannot safely be left to their own guidance in this respect. The principal reason put forward is this: the average white man has sufficient self-control to abstain from such abuse of stimulants as renders him a danger or a nuisance to himself or others; it is only a minority who are slaves to their passions in this respect. But with the native the reverse is the case. The native who, having unrestricted access to drink, will take only a moderate amount is an exceptional specimen of his race. We find this view all but universal among witnesses of experience, although some attribute it to his inability to control himself, while others say that he is capable of doing so but, owing to his lack of foresight and the absence of any such external repressive force as public opinion, is unwilling to do so. Probably both factors are present.

15. The experiment of allowing the native free access to intoxicating liquor has been tried in the Cape Colony. The evidence given before us and before previous commissions goes to show that the resulting drunkenness was outrageous, and that crime, especially stock theft, was common among the natives. The experiment was obviously a failure, since it was given up, and, in 1898, what is known as the Innes Act empowered licensing courts to restrict the sales of liquor to natives in various ways. The tendency to use these powers has been steadily growing; in other words, the general opinion of the Cape Colony, after trying both free sale and restriction, is increasingly in favour of the latter.

16. Since the evidence is overwhelming that the native does lack self-control in the use of liquor, this fact evidently renders it desirable to place some restriction upon his use of it. This is justified both by the inconvenience and danger to which a drunken native subjects the remainder of the community, and also by the injury which he does to himself and to his descendants. The general principle that immoderate users of alcohol may and must be restrained is widely accepted. All the South African Colonies and most European countries have provided for such restraint, not only in the case of races but also of individuals, by authorizing the magistrate or some similar authority to prohibit the supply of liquor to named persons upon satisfactory evidence of their inability to abstain from abusing their liberty.

17. A policy of restriction is thus quite justifiable in principle. But it must be remembered that it necessarily creates an illicit trade in liquor which, where the restrictions are severe and the number of prohibited persons large, attains the proportions of a very grave evil. On the Rand, for example, there exists, side by side with a prohibition which is nominally absolute, an enormous and continuous illicit sale of liquor to natives. This sale is carried on with the regularity and permanence of a legitimate trade: the attempt to suppress it costs the country annually an immense sum in police, prisons, and all the machinery of the law; a large number of persons is always in prison for offences against prohibition; and the *minimum* penalty which can be inflicted for the offence of selling liquor to natives is six months' imprisonment with hard labour, which may be increased upon a third or subsequent offence to as much as five years; yet these stringent endeavours to enforce prohibition have not succeeded in suppressing the illicit traffic.

18. The evils produced by this illicit trade—and therefore, ultimately, by a policy of restriction—are very great, but, like most things in this world, that trade is not responsible for all the evil with which it is charged. Probably the aversion of the great mass of the public to the system is chiefly due to the idea that it causes the conviction and imprisonment of numbers of people who are either altogether innocent or who have, at most, committed, under pressure of

necessity, a single offence. It is, of course, impossible to say that no such cases occur—they may occur in regard to any offence—but no single case of a wrongful conviction and only an infinitesimal proportion of apparently hard cases have been quoted to us. We say "apparently" because it must be remembered that, in any case of real hardship, it is always open to the Governor to exercise the prerogative of mercy. This has been done in some cases; where it has not been done that fact shows that the Attorney-General did not consider the case a hard one. In the nature of things, hard cases cannot be frequent; the police have instructions never to prosecute for a first offence, and, even if they do not follow these instructions (which we have no reason to suppose), the improbability of detection the first time the offence is committed is enormous. Beyond doubt an overwhelming majority of the persons convicted are illicit liquor dealers by profession.

19. But the evils unquestionably due to the illicit trade are immense. Most of the liquor thus put into the hands of the native is of the strongest character, and much of it is injurious, if not poisonous, while the object of all restrictions is to compel the use of light and wholesome liquor, if any. It is drunk in secret and in quantities, while it would be desirable that anything the native takes should be drunk under supervision and in moderation. It fosters in both native and white man a habit of lawbreaking: it maintains a most undesirable class of citizen; and its cost to the taxpayer is enormous.

20. These evils are of course incidental not to the policy of restriction itself but to the imperfect enforcement of such a policy. It is therefore necessary to inquire whether such a policy can be carried out with such a degree of success as to reduce the illicit traffic to an unimportant factor.

21. On the Rand there has unquestionably been made, during the last seven years, a serious and unremitting effort to attain total prohibition. Every one knows that that effort has failed. Whether the illicit trade is increasing or decreasing is a matter of dispute, and no certain conclusion can be drawn from the figures available, but that it continues to a degree entirely inconsistent with the nominal law is admitted on all hands. Unless, therefore, some definite method of improving the administration of the law to a marked extent can be discovered, it must be admitted that a large illicit trade is, in practice, a necessary concomitant of the attempt to enforce prohibition upon large masses of natives assembled together for industrial purposes.

22. The following are the principal improvements which have been suggested:—

(1) The close compound system.
(2) Increased police.
(3) Increased penalties for the sale of liquor and for drunkenness by natives.
(4) Deportation of alien sellers and the return to their kraals of habitually drunken natives.
(5) Placing the compounds under the control of the police.
(6) Adding pyridine to methylated spirits.
(7) Stopping the sale of yeast by brewers.

23. *The Close Compound System.*—The evidence taken at Kimberley and Jagersfontein leaves no doubt that this method would be successful. But we are not prepared to recommend a step of such a revolutionary character, involving general trade considerations far outside our reference.

24. *Increased Police.*—The evidence shows that, elsewhere than on the Rand, the illicit trade vanishes for a while after each conviction, and then gradually increases again until the next conviction. It may be that additional convictions on the Rand would reduce the prevalence of the crime: at any rate, the experiment of increasing that branch of the police which deals with the illicit trade might well be tried.

25. *Increased Penalties.*—Practically the only way in which the penalty for selling to natives can be increased is by adding lashes: if the present term of imprisonment is not a deterrent neither would an increased term be so. We are not prepared to recommend the infliction of lashes.

26. *Deportation.*—It has been suggested that convicted illicits should be deported. This is, of course, only applicable to aliens, but, as far as it goes, it is difficult to see any objection to it, the more so as we understand that offenders in this respect are largely aliens. An alien illicit liquor dealer is a resident we can well spare.

27. Native habitual drunkards might also be deported to their kraals. Probably the fear of this would be a considerable deterrent to natives not yet debauched; the departure of those natives past cure would remove centres of contagion, and the absence of both classes would deprive the illicit dealer of customers. We have it in evidence that the native habitual drunkard does not return to his kraal.

28. *Placing the Compounds under Control of the Police.*—At present the internal policing of the compounds is done entirely by mine employees. It has been suggested that this duty should be placed upon the Transvaal Police with a view to obtaining improved organization and co-operation and more frequent changes in the *personnel* employed in this work on each mine. This course certainly presents some advantages. At present each compound manager uses his own methods, and some, no doubt, are less expert and less enthusiastic than others in repressing the illicit trade. Against these advantages must be set the disadvantage of a position which would be likely to cause friction between the police and the compound managers. Divided authority, always a bad thing, is more especially so in dealing with natives. At Klipspruit Municipal Location, which the police looked after for years, they have now withdrawn in favour of the municipal employees, merely maintaining a post, of the nature of a reserve, near the location, to be called upon in case of necessity. The same principle is to be applied to the mine compounds; the police are now being decentralized in such a manner as to have a small post within easy reach of each mine. We see reason to hope that this will have good results, and we do not think it desirable that the police should undertake the internal control of the compounds.

29. *Adding Pyridine to Methylated Spirit.*—There is no doubt that a large quantity of methylated spirits is consumed by the natives. Apparently the method of denaturing formerly in use in the Transvaal was inadequate to render the spirit non-potable to the native palate. All the other South African Colonies use pyridine for this purpose.

30. The evidence taken in the Orange River Colony and in Natal shows that this precaution, though not entirely extinguishing the use of methylated as a drink, at any rate reduces it. The only argument on the other side is that the pyridine renders the spirit an absolute poison. We think that Dr. Macrae's evidence and the experience of the other Colonies effectually disposes of this contention. In November, 1909, the Transvaal Customs adopted a new prescription, including pyridine, but it is too soon to judge of the result in this Colony. We approve, however, of the experiment.

31. *Stopping the Sale of Yeast.*—In Pretoria, at least, natives are increasingly using the yeast sold by brewers to render more intoxicating beverages manufactured by themselves. We think the sale of yeast to natives should be prohibited, which can be done by proclaiming it to be an "intoxicant" within the meaning of section *three* of Ordinance No. 32 of 1902.

32. To sum up the result of the suggestions made for enforcing restrictions, we think that some improvements might be made, but we see no hope that any of them will make total prohibition really effective. In other words we regard the illicit trade as, in practice, an inseparable incident of total prohibition and, to some extent to, any policy of restriction.

33. This would seem a poor look-out for the future but for two considerations. One is that the evils of the illicit trade diminish as the severity of the restrictions is relaxed; and the other that the relaxation of restrictions is only a matter of time. In restricting the native's access to liquor we are treating him as a child. We do so deliberately, believing that, in this respect, he is a child. But, if he is to have the privileges of a child, he must do what children exist to do—grow up, and, when grown up, rely on his own qualities for his protection. Restrictions are in the nature of training, necessarily temporary, not permanent.

34. In view of this, any method of control adopted should not merely suit the needs of the moment, but should be part of a complete scheme designed to enable the native to withstand, by his own strength alone, the conditions of his future career. One of the conditions of that career will indubitably be the presence around him of great numbers of white men using alcohol freely. In those conditions it has never been found practicable to exclude natives entirely from access to alcohol, and it is undoubtedly getting less and less possible as the number of whites and the intelligence of natives increase. An eternal struggle against the strong natural desire of the native for alcohol cannot be seriously contemplated; the only hope is to train him to protect himself against it.

35. It is said by many people that it is impossible to raise the native to this standard. That may be true, although we do not know that any deliberate and continuous effort to attain that end has ever been made. But it is unquestionably true that, if he cannot attain this standard, he will vanish from the face of the earth. It is certain that the way of the world in future will be the way of the white races. No type which cannot conform to that way of life will survive, and to that way of life either the physical strength to withstand alcohol or the moral strength to abstain from it is essential. If the native can develop neither the one nor the other, he will perish, as the natives of America and Australia are perishing.

36. In this connection it may be pointed out that the native is steadily tending to produce stronger and stronger drinks of his own. In many places we find that he is abandoning his old-fashioned and comparatively mild kaffir beer in favour of such compounds as skokiaan and khali. In some cases at least this is directly traceable to restrictive legislation, which, by prohibiting kaffir beer, has induced him to turn to things which can be produced more rapidly and more secretly, and, these tastes once acquired, kaffir beer no longer satisfies him. The issue as to whether he shall or shall not acquire the taste for stronger drink is thus largely out of our hands; he is actually doing so in face of all restrictions. What we can do is to see that he acquires it to some extent under our guidance and control.

37. But, while it seems clear to us that the native must either learn self-control in relation to liquor or die out, we are by no means clear as to which course he will take. If he cannot acquire self-control there is no advantage to any one in hastening his extermination by inducing him to take drinks of a character beyond his present powers of restraint. Even if he can learn, he can only learn gradually. While complete protection has no educational value, since self-restraint can only be strengthened by exercise, no more has complete freedom since temptations which are not resisted weaken, instead of strengthening, the character. Opportunities must therefore be given to the native to exercise self-restraint in partaking of alcohol; but those opportunities must not be such as to make it virtually certain that he will not succeed. In other words, he must be allowed access to the milder forms of alcohol at first, and, if he endures this test, other forms must gradually be thrown open to him until all restrictions are done away and he attains the *status* of a free adult. This is the only permanent solution of the problem; perpetual restriction is at best a mere palliative and, as we have already pointed out, a palliative which is bound to break down sooner or later.

38. Our general conclusion is that it is necessary, in the present stage of the native's development, to restrict his access to alcohol, both for his own sake and for that of his neighbours, but that the restrictions imposed should be of such a nature as to constitute a definite training with a view to their gradual removal in the future. The immediate practical questions are, first, by what method can the native be given access to mild forms of alcohol while still being protected from stronger ones, and, secondly, what forms of alcohol can he be entrusted with at his present stage. These questions we propose to consider in the two following divisions of this chapter.

Division 2.—The Method of Control.

39. To begin with, we must point out that all measures should be taken with an eye to that class of native who will drink if he can get liquor with tolerable

case, but who will not devote himself to the search for liquor to the exclusion of all other considerations. The confirmed drunkard requires special treatment, and there is no need to trouble about the total abstainer except to see that the temptation to abandon that position is not put in his way. Many natives now on the Rand are doubtless beyond reformation; we have to deal with the average native as he arrives from his kraal.

40. Bearing in mind what we have said as to the necessity of training the native, it is clearly necessary to allow him some scope as to the amount he drinks, otherwise there is no room for the exercise of self-control. We also think it desirable that the native should not, save in exceptional circumstances, be provided with any liquor for which he does not pay. Most natives are careful of their money, and thus a certain amount of automatic check is provided upon the quantity consumed. But it seems tolerably certain that few natives would be able to resist a tot of liquor offered to them as a free gift, and thus anything of the nature of a ration would tend to cultivate a taste for alcohol even in those who otherwise would not acquire it. The argument against the sale of liquor is that it creates a financial interest in the supplying of liquor to natives. No doubt this should be avoided as far as possible. It is undeniable that any method of supplying liquor to the native must be of a highly experimental character; it is possible that the experiment may have to be abandoned; it is almost certain that experience will show desirable modifications; and the existence of any established interest would be a serious embarrassment in attempting further reforms. Also, the business of keeping kafir canteens will not attract a good class of man.

41. It follows that the supply should be undertaken by a public body. We think that body should be the Government. To place such a matter in the hands of local authorities would be, at best, to destroy uniformity, and might easily lead to the wrecking of the whole system if all or some of the local bodies were unfavourable to the experiment. We cannot agree with the objection advanced to this system that the native will regard Government canteens as a direct incentive to drink.

42. It is also desirable that the method adopted should be such as to provide for the distribution taking place under some amount of supervision, at any rate enough to prevent actual drunkenness. And, finally, the method must be not academic but practicable, which involves a certain amount of adaptation to various local circumstances. Natives may, for our purpose, be divided into three classes:—

(1) Masses of natives accumulated under collective discipline, and more or less isolated, such as mine boys;
(2) considerable numbers living, not under collective discipline, but intermingled with whites, such as house and store boys; and
(3) natives scattered throughout the country districts.

Caeteris paribus, a system adaptable to all or to two of these classes would be preferable to the complication of three different systems.

43. The methods proposed to us are six in number:—

(1) That the native should be totally prohibited from the use of any intoxicating liquor whatever.
(2) That he should be allowed to obtain liquor upon the production of a permit from his employer.
(3) That his employer should be allowed to give, not to sell, liquor to him.
(4) That he should be allowed a limited amount of liquor prescribed by law.
(5) That he should be allowed to make and consume, but not to sell or purchase, certain classes of native liquors.
(6) That he should be allowed to purchase as much liquor as he chooses, but of certain classes only.

44. *Total Prohibition.*—The advocates of prohibition urge that nothing less will save the health of the native. On this point we have before us the findings of the Mining Regulations Commission, 1907, a portion of whose reference it was: To inquire into the working of the Mines, Works, and Machinery

Regulations, and to make recommendations thereto necessary for the better protection of the health and safety of persons working in mines. And whose finding is:—

(*a*) That kaffir beer, properly made and consumed in moderate quantities, is a very wholesome and entirely permissible beverage for those natives who are accustomed to it; but we think its production should be carefully supervised.

(*b*) That an equivalent allowance of beer made by European methods may, without objection, be substituted for kaffir beer where natives prefer it.

(*c*) That there is no good reason why mine natives who are accustomed in their own country to the use of wines or spirits should not receive a moderate allowance of the same, provided such issue can be regulated satisfactorily.

With this before us, we have considered that this portion of our inquiry, namely, as to the health of the native, was in other hands, and have not prosecuted it, although we have incidentally heard the opinion of several witnesses upon the subject.

45. We are also told that the natives themselves desire prohibition, and the evidence we have received certainly goes far to bear out that view. But the language used suggests that what the natives desire to be protected from is European spirits—a point upon which we have hardly met with any difference of opinion. And all such expressions of opinion will be found to be based on a consciousness of lack of self-control. It seems to us that our business is to attack the disease not the symptom.

46. A third argument is that any form of alcohol increases the desire for stronger forms, and that, therefore, it is easier to enforce total than partial prohibition. On this point we have heard many contradictory opinions and no conclusive facts. But we see that it is impossible to enforce total prohibition, and it seems to us probable that some form of safety-valve would reduce the pressure.

47. It is commonly said that those who may fairly be termed experts in native matters are practically unanimous in recommending prohibition. We do not find that the evidence before us bears this out. Witnesses of this class certainly agree in recommending total prohibition of European liquors, but few of them desire to place kaffir beer upon the same footing. And the prohibition which they recommend is real, not nominal, prohibition: which we have already said that, on the Rand at least, we cannot give them.

48. Against prohibition it is alleged that the labour supply would be increased by allowing liquor. This argument seems to us finally disposed of by the experience of the diamond mines at Kimberley and Jagersfontein. Their compounds are the only place in South Africa where total prohibition is really enforced, and they are the only industry requiring natives in any number which does not need to recruit; natives in plenty come to enrol voluntarily. No doubt this is partly due to the opportunities offered by diamond mining for the sudden acquisition of large sums by means of the rewards given for finding diamonds, but we were told at De Beers that the same anxiety is shown to get into those compounds where no such opportunities exist.

49. It is also said that prohibition positively encourages drinking on the principle that "stolen fruit is sweetest". But prohibition means that the drink obtained is of a bad class and can only be got at considerable expense and risk. It is not the experience of business men that such methods increase sales.

50. The arguments against prohibition which impress us most are that it has no educative effect, and that it involves the evils of the illicit trade in their most acute form, and these objections are, in our opinion, conclusive against it.

51. *Permit by Employer.*—The method of allowing a native to buy what liquor he pleases upon the production of a written permit from his employer was tried on the Rand from 1891 (Law 12, section *eighteen*). By common consent it proved to be totally impracticable. Permits were forged wholesale, and the result was hardly distinguishable from the system of free and open sale. After several amendments the system was abandoned, so far as the diggings were

concerned, in favour of total prohibition. In the Orange River Colony we found that even the permission to employ a native as a messenger to fetch liquor gives an opening for forgery.

52. *Gift by Employer.*—The kindred system of allowing the employer to give, but not to sell, liquor to his native employee shows, upon the face of it, no particular danger. There are two automatic restrictions upon abuse of the privilege: the cost of the liquor and the desire to keep the servant efficient. So long as the practice is confined to genuine gift—such cases as that of a native driver after a long, wet day's work—we see no objection to it beyond the inevitable cultivation in the native of a taste for strong liquor. But there is always the risk, especially where native labour is scarce, that the liquor will become, in fact, a portion of the native's wages. Competition for service will take the form of letting it be known that the article which is at once cheapest to the employer and most attractive to the servant can be obtained in greater quantity from one employer than from another. In fact, the contract will resolve itself into an agreement, express or tacit, to pay the native for his service a certain amount of money and a certain amount of liquor. Such an agreement contravenes the principle of all Truck Acts. And we have given our reasons for regarding it as desirable that the native should see clearly that, by consuming liquor, he is expending money.

53. In the Orange River Colony the law allows the bona fide employer of any coloured man to give him one drink a day to be consumed in the employer's presence. There seems no reason to suppose that this provision is seriously abused or, indeed, that it is much used. But the conditions of the Orange River Colony are only analogous to those of the rural parts of the Transvaal: we fear that, on the Rand at least, even this limited privilege might create a class of bogus employers who would be in reality illicit liquor dealers. It is very difficult to prove an actual sale, as opposed to a gift, or that the drink which is seen consumed is not the first of the day.

54. *Manufacture, not Sale.*—The fourth method—prohibiting any sale, but allowing the native to make and consume his kaffir beer—is already in use in rural parts, but it does not seem susceptible of extension to large centres of population. In the country the manufacture is done by the women; in the towns there are not a sufficient proportion of women to undertake this, and the men, being all in employment, have other things to do. There is a consensus of opinion that this system is not suited to towns, as is shown by the fact that the manufacture of kaffir beer is prohibited in nearly all towns throughout South Africa. In the country the only objection taken to it is that assemblages of natives to drink beer lead to idleness and desertion, as well as, too often, to crimes of violence, so that it is desirable to put some check on these beer parties.

55. *The Ration System.*—The fifth method, that of supplying each native with a daily ration of liquor, the amount being prescribed by law, can only be used on the mines or in similar places where natives are under strict discipline. There is also considerable difficulty in devising the requisite machinery for supplying one tot and one only to each boy who desires it. Natives on the Rand are not closely compounded; they are free to wander all over the property, and it would be difficult to prevent any liquor given to them from changing hands, so that some boys might get the rations of a large number of others. Possibly this difficulty could be overcome by keeping a bar at the mouth of the shaft, and supplying a drink to each boy as he passes through, so that it would be impossible for him to obtain another until he had been down the shaft again. But, if the bar is the only exit from the shaft, this system is open to grave objection that it compels every native to pass through it, thus putting a wholly unnecessary temptation in the way of those who do not desire liquor. If, on the other hand, an alternative exit is provided, this, while but slightly diminishing the temptation to go to the bar, could hardly be prevented from becoming a means by which boys who had already received their ration might again obtain entrance to the bar as if they had only just come up the shaft. Any proposal to mark on each boy's ticket the fact that he has had his daily allowance might be defeated by the exchange of tickets. The only place where this system has been tried on any scale is at the Jagersfontein diamond mine, and, as the closed compound system is

in use there, these difficulties do not arise, as they must on the Rand. In other respects the Jagersfontein experience is negative; after trying both the ration system and total prohibition for years together, the observed results are identical.

56. An advantage of the ration system is that, the amount being strictly defined, it is impossible for excess to result. But, for ~~some~~ the same reason, it leaves no scope for self-control, and the educative element is entirely lacking. Nor can much be hoped from it in the way of repressing the illicit trade, since the allowance must necessarily be served out in amounts and at times decided not by the native's desires but by the exigencies of his work. And the utmost amount of liquor which any one would propose to deal out in this way would not go far towards quenching the craving for alcohol; there is even reason to believe that it might stimulate it.

57. *Limitation to Special Classes of Liquor.*—The last proposal—to allow boys as much drink (within reason) as they can pay for, but only certain kinds of drink—is easy to arrange. Special shops could be opened in which the permitted classes of liquor and those only could be kept; these would require no supervision beyond that necessary to prevent drunkenness, and the concentration of the sale of liquor in a limited number of well-known spots would render the task of supervision comparatively easy. It is, of course, essential that the consumption shall be only on the premises, and that no liquor shall be carried away, otherwise supervision will be lacking.

58. This system reduces the evils of illicit dealing to the minimum compatible with any restrictions at all. It leaves the native a good deal of discretion as to how much he shall drink, while the requirement that he shall drink only on the premises provides the necessary supervision. It also gives the native an opportunity, which he has not under prohibition, of learning the difference between good and bad liquor, and it may be hoped that this will prevent him being so good a customer to the illicit dealer Finally, it is absolutely practicable, in fact it is already in use in Durban, with good results. There the municipality has obtained a legal monopoly of the sale of kaffir beer within the borough. It brews the stuff itself, sending it out at an approximate strength of 6 per cent. proof spirit, and distributes it to three establishments, each in charge of a white municipal employee, where it is retailed to natives. When we were in Durban, at the end of May, 1909, the experiment had only been in working order for about four months, but the decrease in native drunkenness was most marked. We have since received a report of the Chief Magistrate on the working of the municipal kaffir beerhouses at Durban (Annexure No. 3), which shows still more favourable results.

59. At Maritzburg there is a system somewhat on the same lines, but modified by allowing a native, upon the production of a permit from his employer, to carry off a limited quantity of kaffir beer for consumption at home. It was represented to us that this was for the especial benefit of native women in employment who, otherwise, could get no beer, and who are just as much accustomed to it as the men. There is undoubtedly force in this contention, but we doubt whether, in most places, the benefit to the comparatively few women employed would counterbalance the loss of supervision. When consumption on the premises only is allowed it is possible to prohibit altogether possession of liquor elsewhere; any exceptions would make this difficult to enforce.

60. Upon the whole, we are of opinion that, on mines and in towns, a system of shops, managed by a Government Department, selling only a special class of liquor and only for consumption on the premises, combines more advantages with fewer disadvantages than any other method of control.

61. It follows from the provision that liquor is only to be consumed on the premises that these shops should supply food as well as drink. It is not, however, absolutely necessary that the supply of food should be, like that of drink, in the hands of the Government. At the Durban shops tables at which food is supplied are kept by kaffirs, who pay a rent to the municipality for this privilege, while, at the end of the hall, there is a bar where kaffir beer is supplied by employees of the municipality only. Every customer buys his pot of beer and carries it off to the table of the stallholder whom he prefers, and there purchases and eats his meal.

62. We think that there is considerable advantage in letting the tables to natives only if the Government is unwilling to take the catering upon itself. Those white men who would go in for such a business are mostly of the class from which the illicit liquor dealer principally comes. Native vendors, besides being amenable to control, will provide the kind of food and cookery which the customer is accustomed to and likes.

63. There is a considerable number of existing kaffir eating-houses which will certainly and reasonably raise an objection to Government competition in their business, more especially when the Government has the additional advantage, from which the private eating-house keeper must be excluded, of being allowed to sell liquor. The Government should expropriate the existing eating-houses. It will be easy enough to raise the funds for this purpose out of the profits made by the proposed canteens.

64. The establishment of this system on the mines seems to offer no serious difficulties. Its extension to house and store boys raises the question how to secure sites for these native bars. On the mines there is no difficulty, but in towns there will certainly be considerable objections to their proximity. Experience has shown that under the present municipal by-laws there is always considerable local opposition to the establishment of an eating-house; it is not a pleasant neighbour.

65. The obvious solution might seem to be to require a licence to be obtained from the local licensing authority. But we think that there would be danger of such authorities, when opposed in principle to allowing the native any liquor at all, using their powers to nullify the whole scheme. We think the safer plan would be to require notice of the intention to establish such a house to be given in the *Gazette*, in a local paper, and on the proposed site. If objection is taken by any occupier of premises within (say) 150 yards, the scheme should not be proceeded with except upon the sanction of the Governor and upon such terms as to compensation, etc., as he may prescribe, after making such inquiries (by a commission or otherwise) as he thinks fit. Such a check already exists in respect of certain forms of municipal enterprise.

66. It is evident that this method of controlling the supply of liquor is not applicable to natives employed upon farms or in rural parts; the distances are too great and the population too scattered for the establishment of shops. The same objections apply to the system of allowing liquor to be sold upon the permit of the employer, and the ration system is quite inapplicable. There remain only the existing system of allowing the manufacture of kaffir beer and the system of gift by the white employer. As we have pointed out above, there is no objection, in rural parts, to the manufacture and consumption of kaffir beer subject to certain restrictions which we deal with later; the only question is whether the employer should be allowed to give his native servant a drink of other liquor.

67. There is no reason why the country native should have any greater facilities for obtaining liquor than the town native, in fact the reverse is the case. Everywhere the urban population have, in the nature of things, greater facilities for obtaining everything than the rural population, and experience shows that men living a town life have certainly a greater desire for and probably a greater need of stimulants than those leading the healthier and more natural life of the country. All that is needed is to provide some sort of equivalent for the shops which we recommend in towns, and the only available equivalent is the employer. Clearly, he cannot be allowed to sell liquor to his servants; the question is whether he should be allowed to give it. We have already pointed out the disadvantages of this method, but there appears to be no alternative. Naturally, the employer would be subject to the same restrictions as the town shops in respect of the class of liquor to be supplied.

68. There is reason to believe that the existing unrestricted power to hold beer parties is often abused. In the Orange River Colony the law prohibits such parties, except with authority from the employers of the host and guests, and also from the police. The principal advantage of this is that the police are aware beforehand of what is going on and are able to take preventive measures. In the Cape Colony a somewhat similar provision obtains, but only the consent of the employer has to be given. It has been alleged that the farmer uses this as

a lever to obtain a supply of cheap labour, but we find no evidence to support this; probably a farmer not granting permission at reasonable intervals would soon run short of servants. In the Transkeian territories no permission is needed to hold a beer party, but the host must notify the headman of his intention, and is criminally responsible, up to a fine of £5, for any crime of violence committed by any of his guests. We think that these restrictions are sound and should be adopted here. The granting of the permit might be left to the magistrate, resident justice of the peace, field cornet, commandant of police, or other responsible officer in accordance with the conditions of each district.

69. The distinction between town and country varies considerably. We cannot undertake to frame a definition of either, but we suggest that it be left to the Government to proclaim such areas as they think fit for the establishm. of the shop system.

70. Our conclusion is that, in areas proclaimed from time to time by the Governor, shops should be established for the sale to natives by a Government Department of certain prescribed classes of liquor only, while elsewhere the native should be, as now, allowed to make and consume kaffir beer, but not to hold a beer party except with the authority of his employer (if any) and a responsible official, and white employers should be permitted to give their native servants liquor of the same class as is sold in the shops.

Division 3.—The Form of Alcohol.

71. The object in view is to train the native in habits of self-control and, during the process, to protect him from the illicit dealer and to guard his neighbours from the results of his drunkenness. The third point is already provided for by requiring him only to drink on the premises, where no drunkenness will be permitted. To meet the second it is necessary to give him something which will come reasonably near satisfying his tastes; yet, in order to comply with the first condition, the drink must be of very moderate alcoholic strength, since there is no present hope that the native will control himself in his consumption of the stronger liquors.

72. The available liquors may be classified as spirits, fortified wine, natural wine, malt liquors, and kaffir beer, and their respective strengths are approximately as follows:—

Spirits	... ...	77	per cent. proof spirit.
Fortified wine	... ...	31	,, ,, ,,
Natural wine	... ...	20	,, ,, ,,
Malt liquor	... ...	10	,, ,, ,,

Kaffir beer may, in theory, vary from 0 to 28 per cent. proof spirit, but the highest met with by the Government Analyst of the Transvaal is 12 per cent. of proof spirit, and of the 109 samples recorded by the Government Analyst of the Orange River Colony, none reached 12 per cent. Its strength can easily be regulated by the period which it is allowed to stand after fermentation has commenced.

73. Spirits and fortified wines may be discarded at once; if the native could be entrusted with these there would be no necessity for any restrictions. In choosing among the remainder the question of taste becomes important, and we have accordingly ascertained, as far as possible, what liquors the various natives employed on the Rand have been accustomed to drink. The result is approximately as follows:—

74. Total number of natives employed on Witwatersrand, Middelburg Coalfields, Premier Diamond Fields, Heidelberg, and Klerksdorp at end of October, 1909, 240,788, made up as follows:—

From Basutoland	8,183
,, Bechuanaland	2,538
,, Cape Colony	58,142
,, Natal and Zululand	28,412
,, Orange River Colony	5,202
,, Portuguese Territory (East Coast)	91,412
,, Southern Rhodesia	1,857
,, Swaziland	2,637
,, Transvaal	42,405

Natives who have acquired a taste for kaffir beer in the territory from which they are recruited.

From	Basutoland	8,183
,,	Bechuanaland	2,538
,,	Cape Colony	43,025
,,	Natal and Zululand	28,412
,,	Orange River Colony	5,202
,,	Portuguese Territory	21,096
,,	Southern Rhodesia	1,857
,,	Swaziland	2,637
,,	Transvaal	42,405
	Total	155,355

Natives who have acquired a taste for kaffir beer and miscellaneous wines in the territory from which they are recruited.

From	Portuguese Territory	35,158

Natives who have acquired a taste for spirits or wine in the territory from which they are recruited.

From	Cape Colony	15,117
,,	Portuguese Territory	35,158
	Total	50,275

75. It will be seen that there is much variety of taste. Two methods of dealing with this question are open to us; either certain kinds of liquor may be kept in the shop and supplied to all classes of natives indifferently, or each tribe may be confined to the particular liquor to which he is accustomed before he comes to the Rand, i.e. only kaffir beer to be sold to Zulus, wine to the native from the central area of the Portuguese territory, and spirits only to N'Yambaans and natives from the Cape Colony proper.

76. The latter proposal would be extremely difficult to carry out in practice, as all kinds of natives are mixed in the compounds, and it would be practically impossible in a shop where assorted natives were drinking assorted liquors to confine each to his particular brand. The former seems the only practicable method, since the various classes of natives are, at least on the mines, necessarily intermingled in order to secure efficiency. The problem is, therefore, to find one or more drinks which will have a reasonable prospect of satisfying the majority of natives and yet will not increase the taste for alcohol among those accustomed to lighter drinks.

77. The three varieties of liquor remaining may, in practice, be reduced to two—kaffir beer or natural wine. There is nothing to be said for malt liquor as against these two; it has no qualities specially desirable for our present purpose, and it is a taste which hardly any natives have acquired. Of course, if natives are to be allowed wine, there is no object in excluding malt liquor, otherwise we can see no object in including it. We shall therefore leave it to stand or fall with wine, and discuss only the relative advantages of the latter and of kaffir beer.

Mr. Munnik dissents from paragraphs Nos. 78–92. (See Reservation No. 1.)

78. It will be seen from the figures set out in paragraph 74 that kaffir beer is the most usual drink, and the possibility of keeping it down to any percentage of alcohol which may be desired renders it extremely suitable for a first experiment. The facility with which it can be adulterated and its strength increased, which would be a serious drawback to allowing its unregulated sale, is of no importance when it is brewed and handled solely by the Government. It has the further advantage of being, at low alcoholic strength, a food as well as a drink; not only is it supporting, but it may, without evil effects, be drunk upon an empty stomach.

79. It must, however, be remembered that "kaffir beer" is an extremely ambiguous phrase. The kaffir beer which the native is accustomed to drink is often not the pure article, but adulterated with something stronger; at any rate,

it is very largely drunk after it has attained a much higher percentage of alcohol than is desirable. Also, many of the natives classified above as kaffir beer drinkers are really drinkers of khali, skokiaan, or some similar undesirable concoction of a higher alcoholic strength than plain kaffir beer. It is doubtful whether these natives should not be classed with the wine drinkers as having reached a stage at which kaffir beer will not be a sufficient inducement to abstain from spirits.

80. On the other hand, to allow every native to have wine—and we have already pointed out that it is impossible to discriminate—means teaching to a large majority a taste which they have not yet acquired for a liquor of a stronger character than they are accustomed to.

81. The experience of Durban and Maritzburg is strongly in favour of kaffir beer. But the circumstances of Natal differ from those of the Transvaal in the important respect that the natives of the former Colony are, in the main, kaffir beer drinkers, who have never acquired the taste for stronger liquors. On the Rand we have a great number of East Coast natives whose habitual drink before coming to the mines has been wine.

82. In British South Africa there is next to no experience of the effect of wine on natives. The working class of the wine districts of Cape Colony is not native but coloured. A certain number of labourers spoken of by the Western Province witnesses as natives were employed upon the Nuy Irrigation Works, near Worcester, but no information is available as to their tribes, and it appears that such of them as were natives, in our sense, had probably been long scattered among the coloured people, so that they are not a typical example. The only distinct case of natives upon whom the effect of a ration of wine had been tried came from Somerset East, where a farmer had, for fifteen years, been in the habit of providing the hundred or more natives employed by him upon heavy labour with a daily allowance of either wine or kaffir beer. His evidence was to the effect that the result was willing labour and diminution of drunkenness, but he saw no difference between the effect of the two kinds of liquor.

83. The only place where wine is sold freely to the native is in the Portuguese territory. There can be no doubt that a good deal of drunkenness goes on there, but it is, at least in its immediate results, a harmless type of drunkenness. According to the Chief of Police, crimes of violence are practically confined to the Mahommedan natives, who are total abstainers. But the Governor of the District of Inhambane, the President of the Camara Municipal of Lourenco Marques, the Medical Officer of Health for the District of Lourenco Marques, the Administrator of the Manhica Circumscription, and Doctor Augusta de Cumba Rolla have all, in strong terms, reported that alcoholism is the principal cause of all native diseases. We annex these reports (Annexure No. 4), to which we would draw particular attention.

84. Here, again, the experience is not directly in point, since the "colonial wine" which is sold to natives in Portuguese territory is a fortified wine. It has even been said that it is not a true wine at all, but a concoction of spirits broken down and coloured. We have, however, taken various samples under conditions which we believe to ensure their genuineness, and the results of analysis convince us that the wine is genuine, though fortified. The average alcoholic strength of the samples examined was 27.068 of proof spirit.

85. Also, Colonial wine is sold by private dealers, and, in many cases, at places away from police supervision, so that there is by no means the same check on drunkenness as would be the case in the shops which we propose. Altogether, the Portuguese experience is by no means conclusive for our purpose.

86. As above stated, we have not, in view of the finding of the Mining Regulations Commission, concerned ourselves much with the question of the administration of wine from the point of view of the health of natives on mines. But such medical evidence as we have heard on this point goes to show that it is undesirable to deprive such natives as have been accustomed to wine of their usual stimulant, at any rate for a time. Whether it is medically desirable that wine should be continued permanently or not is a point upon which opinions differ. All agree that it is undesirable to encourage wine drinking in those natives who have not previously been accustomed to it. From this point of

view, wine should be given to one class of natives and withheld from others, and we have already pointed out that this course would be impracticable.

87. We have been much pressed, especially in the wine districts of the Cape Colony, to recommend wine for the native on a ground irrelevant to its intrinsic merits, i.e. that the sale will benefit the wine farmer. In all wine countries the greater part of the product cannot by any effort be adapted for consumption by the upper classes; it is necessarily a drink for the working class, and, in South Africa, the working class is native or coloured. The position of the wine farmer of the Cape would appear to be in many respects similar to that of the wine farmer of Portugal. Both suffer from over-production of cheap wine (*vin ordinaire*), and both are forced to seek new markets beyond their borders. The latter, however, has been more fortunate than the former, and found in the native of the East Coast a vigorous consumer, while the former is still hoping and endeavouring to find one in the native of British South Africa.

88. We quite recognize that the wine industry in South Africa is handicapped by the fact that the working classes are native or coloured. But it is a fact which dominates everything else throughout the country and entirely destroys any analogy with other wine-producing countries. It would be quite unsound to subordinate the immense interest that every inhabitant of South Africa has in the question of the relation of natives and liquor to the interest of any one industry, however important. And while we by no means underrate the importance of the wine industry, it must be remembered that it only exists in a particular portion of one of the four Colonies, and that the remainder even of Cape Colony itself shares with the rest of South Africa a strong aversion to any proposal to allow natives access to wine. And recent experience in France shows that free sale of wine to the working classes does not necessarily mean prosperity to the wine industry.

Mr. de Villiers dissents from paragraphs Nos. 89 and 90 (See Reservation No 2.)

89. We think that the supply of kaffir beer to natives will probably attain in some measure the ends we have in view—the training of the native in self-control and the diminution of the illicit trade. That a supply of wine might possibly attain the same ends more completely at least with that section of the natives which is already accustomed to wine, we are not prepared to deny. But we think that the probability of this is outweighed by the danger of teaching to the other section—the majority—the attractions of a stronger form of drink than they are at present prepared to resist. Nothing in the evidence warrants us in treating the supply to natives of any alcoholic liquor as other than an experiment which may prove a failure, and we feel strongly that, at the inception of an experiment of this character, it is better to go too slow than too fast. We feel confident that no great harm will be done by the supply of kaffir beer under the conditions we have set out; we do not feel the same confidence in respect of wine. If a beginning is made with kaffir beer, and the progress of the native justifies a further step along the same line, it will be easy to add wine to the list of permitted drinks. But, if wine be permitted at once and the result proves unsatisfactory, any attempt to recede will rouse strong opposition, not only among the natives themselves, but also from the great wine-producing industry which will have been created by the experiment. How strong that opposition will be may be judged from recent events in the Parliament of the Cape Colony. We doubt whether the step, once taken, could ever be retraced.

90. We also think that a proposal to give the native kaffir beer would meet with very general assent, but that a proposal to give him wine would, at the present time, arouse such widespread opposition that there would be little hope of obtaining uniformity throughout the four colonies.

91. It has been suggested that, as the native has been accustomed to kaffir beer for generations, the scheme now proposed is no step at all in his education. But he has been accustomed to alternate excess and dearth of kaffir beer, which is the worst possible training. What we propose is a continuous supply under conditions which preclude excess.

Mr. de Villiers dissents from this paragraph. (See Reservation No. 2.)

92. For reasons above set out, we are of opinion that the only form of alcohol supplied at the present stage should be kaffir beer of a wholesome character and a uniform and approved strength.

93. We regret that we have been unable to arrive at unanimity on this matter, but we would point out that the extent of our disagreement is not so great as it may appear at first sight. We are agreed that an attempt must be made to develop in the native the power of resisting intoxicants, and that this attempt must be made gradually and under supervision. We are also agreed upon the method which ought to be adopted. We differ only as to the precise stage of development which it is safe to assume that the mass of natives have at present attained.

CHAPTER 3.—THE COLOURED PEOPLE.

94. Much of what has been said regarding the native applies also to the coloured people, but with several qualifications. They are undoubtedly in need of some protection against themselves, but they are considerably further advanced than the native. In the Transvaal there are comparatively few of them; the place where they are most largely found is the Western Province of the Cape Colony; and there they have for generations been unrestricted in the use of alcoholic drink.

95. What we have seen and heard in that province leads us to believe that there is a considerable amount of drunkenness among them. Their usual drink is wine, but they also consume spirits, and it seems probable that the drunkenness is principally caused by the latter. To deprive them of wine, after the whole race is accustomed to it, is, in our opinion, quite impracticable, nor do we think it desirable. They must, for the reasons we have already given, have some alcohol, and wine is now their natural beverage as much as kaffir beer is that of the native. We think, however, that they should, for the present, be restrained from obtaining spirits and from taking liquor away from the licensed premises. We may point out that a deputation of coloured persons which appeared before us to advocate relaxation or restrictions approved of the latter restriction.

96. We are well aware that there exists a class of respectable, temperate, coloured men who are entitled to as much liberty as any other citizen. But the same may be said, though to a less degree, of natives. In each case we can only suggest what we believe to be the best course for the majority, even though it inconvenience the minority. But this inconvenience will be minimized as far as possible by the system of exemptions which we suggest in paragraph 106, *infra*.

97. Apart from the necessity to protect the coloured man in his own interests, we find that he is often an intermediary whereby the prohibited native obtains liquor. This is an additional reason why he should be restricted to consumption on licensed premises.

98. There is no doubt that practical difficulties will arise in attempting to distinguish coloured persons from Europeans on the one hand and from natives on the other. But these difficulties are not insuperable; the first distinction has been drawn in the Transvaal law and the second in the Cape Colony law for many years. No doubt the difficulty is one that will steadily increase; but, as we have said, we look forward to the cessation of the necessity for maintaining these distinctions.

99. If we had only to look at the situation in the Transvaal, the conclusion would be that the coloured man, like the native, ought to be supplied only in Government canteens for consumption on the premises, merely substituting wine for kaffir beer. But, in order to make it possible for a uniform law to be established throughout South Africa, we are bound to take into consideration the circumstances of the Cape Colony, where the coloured people are a much higher percentage of the total population than they are in the Transvaal, and the question is therefore more important. In the latter Colony there exists no lawful coloured market for liquor, and there is clear ground to work on. But in the Cape Colony the business of supplying wine to coloured persons is already established in private hands, and it would hardly be fair to the existing dealers for the Government to assume to itself this branch of industry. While we should prefer to see the supply to coloured persons, as well as to natives, in public hands, we recognize that any insistence by the Transvaal on this point would be a serious obstacle to uniformity,

and we do not press it. If Government sale to natives gives good results, the system may probably be extended to coloured persons at a later date.

100. We wish to point out the desirability of preventing, as far as possible, any intermingling of Europeans with non-Europeans in canteens. In view of the fact that canteens for coloured persons are, in the Cape Colony, usually an adjunct to a bar for Europeans, it would probably be impracticable there to prohibit the same person from keeping the two classes of establishment or to provide for a minimum distance separating the two. If that be so, we think that, at any rate, no new licences for the sale of liquor to coloured persons should be granted except upon these conditions.

101. There is no reason why employers of coloured men should not be at liberty to give their employees liquor of the class which the latter can buy in canteens, provided that it is drunk under the same conditions, i.e. under supervision. The existing practice in the wine districts of the Cape Colony (which are the principal *habitat* of the coloured man) is for the farmer to give his coloured labourers a certain number of tots of wine daily. We see no harm in this, as the liquor is drunk at once in the presence of the employer or foreman, who can be trusted to see that the labourer does not render himself useless by getting drunk. The practice of giving the labourer at the end of the day a bottle to take away with him is, we think, undesirable, as it removes all possibility of control. Such a practice should, in our opinion, be prohibited. It is quite exceptional, and such a prohibition will cause little or no inconvenience.

102. We therefore conclude that the sale and (by employers only) the gift to coloured persons of any liquor but spirits should be legalized, subject to the limitation that the liquor must be consumed, in the case of sale, on the licensed premises, in the case of gift, in the presence of the employer or his representative.

CHAPTER 4.—THE ASIATIC.

103. In the case of the Asiatic, the whole ground upon which the restrictions on natives and coloured people are based falls away, since he is not less but more temperate than the European. The only ground we find for interfering with him is that, both in the Transvaal and elsewhere, he is very often the intermediary employed to convey liquor to prohibited natives. This objection is sufficiently met by allowing sale to Asiatics for consumption on the premises only, which can most easily be done by placing him on a level with the coloured man. Logically, he should be allowed spirits if he wants them, but this would mean setting up a third class of canteen, since it is essential, if evasion of the law is to be avoided, that the presence on any licensed premises of any liquor of a class other than that licensed to be sold there should be prohibited under a heavy penalty. We do not think that the desire of the Asiatic community for spirits is strong enough to necessitate this complication.

104. We therefore suggest that Asiatics be classified with coloured persons.

CHAPTER 5.—RECOMMENDATIONS.

105. Our recommendations therefore are that—

(1) The Government should proclaim areas within which canteens for natives may be established.

(2) In such canteens the Government should sell to natives, for consumption on the premises only, wholesome kaffir beer of an approved alcoholic strength.

Mr. Munnik and Mr. de Villiers would extend this to include natural wine.

(3) In these canteens suitable food should be supplied, either by the Government itself or by native lessees of tables. Existing kaffir eating-houses should be expropriated.

(4) Outside the proclaimed areas the existing law relating to the manufacture and consumption of kaffir beer should be retained, subject to three modifications:—

(*a*) Beer parties should not be allowed except upon written authority from the employer (if any) of the native host and from a responsible official.

(*b*) Each guest attending such a party should be required to have a permit from his employer (if any).

(*c*) The host should be liable to a fine if any crime of violence takes place at or in consequence of the party.

(5) Outside proclaimed areas bona fide European employers should be permitted to give to their native servants liquor of the same class as is sold in native canteens.

(6) The sale to coloured persons and Asiatics, for consumption on the premises only, of any liquor except spirits should be legalized.

(7) Bona fide European employers should be permitted to give to their coloured or Asiatic servants any liquor except spirits, provided that such liquor be consumed in the presence of the employer or his representative. Employers should not be allowed to give their labourers liquor to take away.

(8) On premises licensed for the sale of any specific class of liquor only, no liquor of any other class should be allowed, and such premises should not be permitted to have any entrance communicating with any other premises. A licence to sell such liquor should be, in all other respects, subject to the restrictions affecting a general retail licence. No new licence for sale to non-Europeans should be granted to any person holding a licence to sell to Europeans or in respect of any premises within a distance of fifty yards from any premises licensed for the sale of liquor to Europeans, and vice versa.

106. There are always exceptions to every rule. We think it would be reasonable that the Governor should have authority to grant or withhold, in his absolute discretion, letters of exemption to any of the prohibited classes which should have the effect of relieving the holder from all disabilities under the liquor law. We recommend that this power should be limited to the Governor because we think it should be exercised only in very exceptional cases. Such letters should be revocable at will.

107. We submit that the scheme above outlined offers many advantages. It provides both natives and coloured people with an opportunity of exercising self-restraint, while it confines them to liquors to which they are accustomed, and which they are therefore less likely to abuse. It discourages the illicit liquor traffic by giving the restricted classes, when they feel a desire for alcohol, an opportunity of satisfying that desire in moderation and under a certain amount of supervision and also by limiting the opportunities of coloured persons and Asiatics to remove liquor for purposes which cannot be traced. It gives no private person any interest in the sale of liquor to natives, and thereby leaves opportunity for such improvements as experience shows to be desirable, at the same time removing any temptation to adulterate.

108. It also provides a basis upon which it may be possible for the four Colonies to meet. The Transvaal is asked to concede to the native in towns the use of kaffir beer, to the coloured man and Asiatic the use of malt liquors and wine, all these under supervision. *Per contra*, limitations, which have worked well in other parts of South Africa, are put upon beer parties. The Orange River Colony is asked to accept even less change, since limitations on beer parties are already enforced there, but it has to give up the existing right of employers to give their coloured and native servants one drink a day. The only substantial alteration in the Natal law is the cutting off of spirits from Asiatics. In the many districts of the Cape Colony where the existing restrictions under the Innes Act amount virtually to total prohibition, the only change proposed in the

law as to natives is the abolition of the exemption in favour of registered voters: as to coloured persons and Asiatics, the Cape Colony can attain uniformity by cutting off their spirits and restricting them to consumption on the premises of such liquor as we propose to allow them.

109. In dealing with this question, there are three factors to consider—the interests of the European races, the interests of the non-European races, and the necessity for uniformity in South Africa. The scheme set forth above appears to us the best resultant of these three conditions.

PART III. DISTILLATION.

PART III.—DISTILLATION.

CHAPTER 1.—THE PRESENT CONDITIONS.

110. Turning to point (*b*) of our reference—

> "To what extent (if at all) the distillation in this Colony of spirituous liquors should be allowed, and, if allowed, whether only from the produce of the vine or from fruit, or from any other produce, and under what conditions or restrictions"—

the position at present is as follows:—By section *eight* of Ordinance No. 32 of 1902 the general principle is laid down that the distillation of spirits within the Transvaal is prohibited. This rule is subject to two exceptions. The first, established by section *nine* of the same Ordinance, is that any one may distil spirit for his own use from fruit grown on land occupied by himself. The second, arising under section *nine* of Ordinance No. 4 of 1906, allows distillation for sale from grapes only, subject to an excise duty of 9s. per proof gallon and to certain conditions, of which the principal are that every distiller for sale must obtain a certificate of registration and that he may only sell to licensees.

111. Some 600,000 gallons of spirits are consumed annually in this Colony. Practically the whole of this is imported either from Europe or from the Cape, while 40,000 to 50,000 gallons of non-potable spirit (i.e. methylated) is also imported, almost entirely from Natal. The obvious question arises why the inhabitants of the Transvaal should be prohibited from supplying, as they formerly did, their own requirements in this direction. Distilling was always to some extent a local industry in the Transvaal until 1902; and the stoppage of this industry has been a hardship on those farmers who previous to that date had been accustomed to distil their produce. There are not, however, many of these; a considerable number of the existing vineyards have been laid down since 1902, and in these cases there is no grievance. No one who deliberately speculates on a possible change in the law has any ground of complaint if his forecast proves to be erroneous. But some few of the older farmers have a legitimate grievance.

112. Various alternative proposals for the employment of produce otherwise than in distillation have been suggested, such as the making of wine, raisins, vinegar, or jam, and the sale of fruit itself either fresh, dried, or canned. Some of these proposals are obviously inadequate; all are speculative. It is no answer to the complaint of a man deprived of an existing source of income to say that he may possibly, at considerable trouble and expense, make the same income in a different business.

113. One effect of the present prohibition of distillation is that an outlet for the chief product of the Transvaal—mealies—is closed, or at least is only available in an extremely unprofitable fashion. Mealies are now used in the manufacture of the highest class of spirits. The Transvaal is exporting mealies, and is likely to export more. It is at the same time buying back those mealies or others in the form of spirits, and is of course paying a large sum for the labour employed in converting the mealies into spirits, to say nothing of the cost of freight, etc. In other words, the Colony is employing labour elsewhere which might be employed within its own borders. This may be economically sound if the necessary labour can thus be procured more cheaply than would be the case in the Transvaal, but in that case the removal of the prohibitions would have no effect whatever. If Europe can undersell Transvaal distillers in the Transvaal market, it is certain that no distilleries will be established in the Transvaal. If, on the other hand, such an industry can be profitably established, its establishment means an increase of employed white population, which is certainly needed by the Colony.

114. There is no need to labour this point. The general rule that production should not be discouraged is admitted on all hands, and in this instance legislative restriction is not only uneconomic but anomalous. None of the other

Colonies about to unite prohibit distillation, nor is there any probability that they will do so. That one Province of the Union should be interdicted from making use of its natural products in the same way that the others are doing is prima facie absurd. It therefore lies upon the opponents of distillation to make out their case.

CHAPTER 2.—OBJECTIONS TO DISTILLATION.

115. A good deal of opposition is based on objections which apply equally to all spirits, whether locally made or imported. Such objections are only relevant to the point with which we are now dealing in so far as internal distillation would tend to increase the habit of spirit drinking. It is said that it will do so by the action of two causes—increased cheapness and local sentiment.

116. No doubt cheap spirits tend to encourage spirit drinking, but it is very doubtful whether internal distillation will materially cheapen spirits. Imported whisky now costs the importer from 19s. 6d. to 24s. a gallon delivered in the Transvaal. Hatherley whisky used to be sent out at from 8s. to 17s. 6d. per gallon. But the latter was not excise paid (the distillery paid a nominal sum of £1000 a year in lieu of excise); the former is duty paid. As the duty is 19s. per proof gallon (or, roughly, 16s. per drinkable gallon), it would appear that the cheapness of Hatherley whisky was due, not to the fact that it was locally made, but to its freedom from excise. With equal taxation, imported spirits would be cheaper than local.

117. It has been pointed out that a strong sentiment is growing up in favour of consuming as far as possible local products, and that, if locally-made spirits are placed on the market, this sentiment will tend to increase the spirit-drinking habit. The sentiment in question is distinctly a South African rather than a provincial sentiment, and may be expected to become even more so in the future. We do not think that people will drink Transvaal spirits in preference to Cape for sentimental reasons.

118. It is said that it is impossible to distil good spirits in the Transvaal. But the Hatherley Distillery succeeded in turning out a proportion of perfectly sound spirits, though it did undoubtedly turn out at the same time a good deal of an inferior quality. And no reason has been given why the Transvaal should not be able to produce as good spirits as the Cape Colony. It is always rash to assert that any form of production is impossible unless the assertion is supported by a long course of unsuccessful experiment. Putting aside the Hatherley Company, distilling in the Transvaal has been tried only in an extremely primitive fashion. There is every reason to suppose that this branch of agriculture would share in the general improvement of methods which has been such a prominent characteristic of the Transvaal during the last few years. In one particular more especially, locally-made spirits did not get a fair chance—the greater part of them seems to have been consumed within a very few months of their manufacture. No spirit, wherever and however made, would be tolerable under these conditions.

119. In this connection we may call attention to a statement made in the October number of *The State* by Dr. Beck, M.L.A., to the effect that the quality of the spirits consumed in the Transvaal appears, from the customs returns, to be rapidly deteriorating. In 1907 the quantity of spirits imported was 273,000 gallons of a declared value of £138,000; while, in 1908, the quantity had increased to 274,000 gallons, but the declared value had decreased to £124,000. This certainly looks as if, in spite of the discouragement of local distillation, the Transvaal was drinking more spirits and worse spirits every year, and, after independent inquiries, we have been unable to find any other explanation of the figures. This distinctly weakens the force of any argument based on the increased consumption and decreased quality which is expected to attend local distillation.

120. It is also said that spirits manufactured in this Colony must inevitably find their way into the hands of natives. We have already stated our opinion that the use of spirits by non-Europeans should be prohibited, and we are therefore bound to recommend nothing incompatible with the enforcement of

that prohibition. It follows that neither the importation of spirits into the Transvaal nor their production within its own borders ought to be allowed except under safeguards which will ensure that every gallon can be traced from the moment of its first appearance within this Colony to the time when it reaches the person who may reasonably be deemed to be the consumer. (It is obviously impossible to follow spirits beyond the point where they are delivered in small quantities to a private person, but this consideration attaches as much to imported as to locally-produced spirits.)

121. The question is whether there is any greater difficulty in attaining this end when dealing with locally-produced spirit than when dealing with imported. Inquiry into excise methods has clearly shown us that there is not, provided that the two are subjected to analogous restrictions. Distillers must be known to the excise authorities, as importers are to the customs. Distillation must only be permitted, as importation is only permitted, at named places. The excise officers must be free to inspect the spirits produced as the customs officers are to inspect those imported. The distiller, like any other wholesale dealer, must take out a licence, must keep proper books, open to inspection by the authorities, and must only move his liquor under the sanction of a permit; indeed, that liquor must only come into his control when it has passed through the hands of the excise, precisely as imported liquor passes through the hands of the customs. In short, the whole excise system, in its full rigour, must be introduced into the Transvaal if distillation is to be allowed.

122. Such a system causes no hardship to the distiller, since it is not only that to which the importer submits without objection but that under which an immense distilling industry has been created and is carried on in other countries. Where there is no native problem, excise restrictions are maintained solely for the purposes of revenue; here, where the revenue to be obtained from excise duties is of infinitely less importance than the stoppage of illicit sales of spirits to the kaffir, there is the greater need for possible precaution.

123. The last objection taken is that there will be no market for spirits produced in the Transvaal. In view of the condition of the Cape Colony brandy farmers, who are producing annually something like 40 per cent. more spirits than they can profitably sell (in addition to the immense stocks already accumulated), we fear this objection is well founded. The fact that no obvious market is available is not, however, a sufficient reason for prohibiting distillation. It is always possible that energy and enterprise may discover markets which have not been anticipated, and, if any one in the Transvaal has a mind to try and succeed where the Cape Colony has failed, we think that he ought not to be handicapped by unnecessary restrictive legislation. Precautions should, however, be taken against the over-production which has occurred at the Cape. Apart from the unsatisfactory economical position thereby produced, a special danger of over-production within the country is that it is liable to create an agitation for the sale of spirits to natives for the sole benefit of the brandy farmer, without considering the interest either of the native or of the remainder of the white community. It may be noted that the Cape Colony, with its immense over-production of brandy, is the only Colony which permits the sale of spirits to natives, and it is not difficult to trace a connection between the liquor laws of the Province of Mozambique and the interests of the wine producers in Portugal.

124. Some objections have been taken to distilling from particular products. The only objection to fruit is that the liquor distilled from some of it is of a bad quality. We do not find any evidence that it is more deleterious than any other spirit; probably the idea is due to the fact that, hitherto, spirits produced from fruit (other than the grape) have usually been drunk unmatured. More frequent objections have been taken to distillation from grain, but we cannot find any sound foundation for them. It is said that the large quantity of mealies capable of distillation means additional expense in supervising stills. Additional supervision only means a certain amount of additional cost, and that would be provided out of the additional excise recovered. It is said that mealies grow everywhere, while the position of a vineyard or peach orchard is easily located. But this is easily got over by requiring each distiller to obtain a licence. A licensee can always be found, and the quantity of spirits to be produced from a mealie crop can be

estimated just as easily as the quantity to be produced from a vineyard. One witness objected on the ground that mealies, unlike fruit, have already a market. The widening of an existing market is, economically, a process of exactly the same value as the creation of a new market.

125. Our conclusion is that the distillation in this Colony of spirituous liquors should be allowed from any produce, subject to precautions against the supply of spirits to non-Europeans and against over-production.

CHAPTER 3.—THE NECESSARY PRECAUTIONS.

Division 1.—Against Supply to Natives.

126. We have already indicated our opinion that the restrictions incidental to an excise would be the best method of preventing spirits from reaching the native. The next question is under what conditions it is possible to enforce these restrictions. With a sufficient supply of men and money it is, of course, possible to enforce them under any conditions, but unlimited expenditure upon excise officers is not a practical proposition. For this reason, distilling in small quantities by individual farmers should not be allowed. This applies as much to distillation for private use as to distillation for sale; the production of spirits without supervision is none the less dangerous because the producer asserts that he does not mean to sell it. If the small still, nominally intended only for household use, were exempted from supervision, it would be an easy matter for the proprietor to distil quantity after quantity until he was caught in the act, and then he would simply say that the spirits he was then distilling were his first production for that season. It is certain that spirits produced under the present law are in fact not consumed by the producer's family alone, but find their way to his neighbours, and there is reason to believe that, in some parts, they get into the hands of the natives.

127. The experience of the Cape Colony shows the difficulty of controlling the small distiller, and we would draw attention to Mr. Honey's report (Annexure No. 5) showing in what disfavour the small distiller is held on the Continent of Europe. It is very doubtful whether he himself gets any substantial advantage from the present system. The product is almost universally consumed before it has had time to become either wholesome or attractive. There is evidence that, in some parts, no work is done in the distilling season, and that the production for so-called private use leads to excess. Under the present law, only very few farmers distil, and the total production for private use is extremely small.

128. It is obvious that control of large distilleries can be more thoroughly and economically effected than that of a number of small stills; in fact, the experience of the Cape Colony shows that the supervision of the latter costs more than they bring in. The industry must, therefore, be grouped in such a fashion that thorough supervision can be guaranteed without additional expense. Fortunately, the existing fruit farmers of the Transvaal mostly fall into groups residing at no great distance from each other. Every group should be allowed to form a co-operative society which should undertake the business of distilling at some central spot, or the existing societies might undertake this branch of industry. To this spot the fruit would be sent and the society could convert it into spirits and sell it.

129. Objections have been made to this plan on the ground that the cost of conveying fruit would be prohibitive, and that the fruit season is so short that the rush on both transport and stills would be unmanageable. The plan is, in fact, in use now informally; one farmer keeps a still, and his neighbours send him their fruit and receive back a proportionate quantity of spirits. We are informed that a similar scheme is actually in use in France and Spain. It has also been said that the idea of co-operation is not popular, but it is an idea which is getting more familiar every day.

130. We do not wish to exclude individual effort from this field of industry; the suggestion of co-operative societies is only put forward as the utmost relief

which we think can be safely extended to the existing fruit farmer. In our view, the only limitation upon the enterprise of societies and individuals alike should be the good repute necessary to obtain the licence, without which no dealings in spirits are allowed in this country, and some security that the cost of supervision will be adequately repaid. The former will be met by subjecting the distiller to a licensing authority, the latter by requiring from him, as a condition precedent to the grant of a licence, security that a reasonable minimum amount of excise will be paid during the following year. If the would-be distiller cannot or will not give such security he cannot reasonably expect that the taxpayer should provide the necessary expense of supervision in order that he may enter upon a hazardous speculation.

131. We do not share the fear which has been expressed that private distillation is bound to become a monopoly. The possibility of a considerable number of co-operative societies ought to restrain any tendency in that direction as much as ordinary trade competition.

Division 2.—Against Over-Production.

132. Precautions against over-production should, we think, be mainly negative; that is to say, no artificial stimulus should be given to the industry. It has been suggested that no spirits should be allowed to be put on the market until properly matured, and such a course would, no doubt, create a reputation and, to some extent, a sale for Transvaal spirits. But it would also cause an accumulation of stocks before the possibility of finding any market could be tested. Such a course would commit the country to the creation of a permanent industry which may not be, and probably will not be, a success, and it would prevent the failure from being discovered until large amounts of money had been lost. By leaving the distiller free to sell as soon as he likes, most of the product will be offered for sale at once, and very little will be matured. Thus the market for immature stuff will be tested immediately, and, if it fails to absorb the amount offered, the industry will soon die out, while, though some years must necessarily elapse before the market for matured spirits can be tested, the amount accumulated will not be great and the failure, if failure there be, will not cause widespread distress. Any attempt to foster the industry artificially will tend to reproduce in the Transvaal the present position at the Cape, which has largely been brought about by Government loans given to the brandy farmers in order to assist them to hold their stocks until matured. Such assistance was perhaps unavoidable at the Cape, where distilation is a long-established and widespread industry upon which large numbers are dependent, but it may safely be asserted that, after the experience of the last few years, no one in Cape Colony would deliberately propose to create and foster a brandy-farming industry if none existed.

133. Of course the excise itself will tend to check over-production. In the Portuguese territory, where the policy of the Government is to encourage wine and discourage spirits, the excise is payable not, as in most countries, upon sale but upon distillation, which renders it impossible to accumulate large stocks owing to the amount of capital thereby locked up.

134. We do not recommend the adoption of this provision, which would, in the case of a new industry, substantially amount to prohibition. But the excise should not be less than that of the Cape Colony. With Union imminent, it is obvious that no system of protection against South African products can be maintained, and a year or two of nursing would leave the infant industry in a less healthy condition than if it had to compete with the Cape from the start.

135. We do not agree with the argument that the excise should be kept low in order that good spirits should be available at moderate prices for fear of driving the consumer to bad liquor. A low excise probably encourages bad liquor rather than good. Excise is charged according to strength, not according to quality, and the high price of good liquor as compared with bad is due to the additional labour and capital required to produce it. It follows that the higher the excise the less difference there is proportionately between the price of good liquor and the price of bad, and the less temptation to buy an inferior article.

136. We annex a table showing the provisions of the English, Cape Colony, and Natal laws on the subject of excise restrictions (Annexure No. 6). The details of the system to be adopted must of course be settled with the advice of experienced excise officers, but we recommend that, in doubtful cases, the more stringent provisions be adopted at first. Difficulties always arise when it is proposed to impose additional restrictions, while it is easy to remove any checks which experience may show to be unnecessary.

CHAPTER 4.—RECOMMENDATIONS.

137. We recommend that

(1) distillation of spirituous liquors in this Colony from all forms of produce be allowed, subject to strict excise restrictions;

(2) distillers be required to obtain a licence and to enter into security for the payment of an amount sufficient to cover the expenses of supervision for the current year;

(3) no artificial assistance be given to the distilling industry;

(4) no exemption in favour of producers for their own use be allowed;

(5) the necessary machinery for co-operative stills be provided.

PART IV.—PROHIBITED AREAS.

PART IV.—PROHIBITED AREAS.

CHAPTER 1.—WHETHER DESIRABLE.

138. Under point *(d)* of our reference we are required to report

> "Whether the Government or local authorities should be empowered to prohibit in any manner the sale of liquor in particular districts or areas in the Colony, and, if so, the extent of the prohibition."

139. Such powers can only be required when the circumstances of the areas affected differ so widely from those of the remainder of the Colony as to need special treatment. In a country inhabited, as is the Transvaal, by different races which have attained very different degrees of civilization, such circumstances must certainly be contemplated. They do, in fact, already exist. There are areas where the European and native inhabitants are very nearly equal in numbers; there are others where the European exists only in a minority so small as to be inappreciable. Such a distinction is recognized by the law of the Cape Colony in the case of the native territories beyond the Kei River, where total prohibition to natives is in force, while, in the Cape Colony proper, the law is much less stringent. European and, we are informed, native opinion in these territories is practically unanimous in favour of this exceptional treatment.

140. Further, the progress of the native in voluntary moderation or abstinence cannot be expected to be uniform, and it will probably be most rapid where the native is most closely associated with the white man, and is thus subject to other civilizing influences, notably work. For this reason the difference between the more civilized and the less civilized native may be expected to increase rather than to decrease.

141. In these circumstances it seems to us essential that provision should be made for exceptional restrictions in less civilized areas.

CHAPTER 2.—GOVERNMENT OR LOCAL AUTHORITIES.

142. In this connection the question arises as to the exact meaning of the expression "local authorities". If the phrase is used in its usual sense as denoting bodies of the nature of town councils, no witness has advocated giving these bodies such powers, and some such bodies have intimated their unwillingness to accept them. As far as the Transvaal is concerned, local government is very much on its trial just now, and this is no moment to add to the responsibilities of municipal councils. It is, in fact, very doubtful if such councils truly represent the feeling of the locality; in some places a very small proportion of the electors take the trouble to vote.

143. It is possible that the proposed powers would arouse public interest in the elections. But it is to be observed that the Johannesburg Municipality already possesses very wide powers indeed, yet so little interest is taken in its elections that, at the last one (which was of exceptional importance, as being the first trial of proportional representation), only 43 per cent. of the electorate recorded their votes. If interest were taken in this matter, it is by no means certain that it would be a good thing. To make every municipal election a battle-ground between the trade and the total abstinence party would be a very doubtful advantage in the conduct of municipal affairs.

144. The only other possible "local authority" is the licensing court. The Cape Colony Act No. 28 of 1898 (commonly known as the "Innes Act") made an experiment in this direction by empowering licensing courts to impose certain restrictions in regard to the sale of liquor to natives. Under this Act the licensing courts of the Cape Colony have adopted restrictions varying from next to nothing up to what amounts, in effect, to total prohibition (although the Innes

Act does not allow the formal imposition of the latter). The information we have gathered in the Cape Colony leads us to believe that the varying nature of these restrictions militates against their effectiveness. The District of Bedford, for example, has severe restrictions, while the adjacent District of Fort Beaufort has no restrictions at all, and the inhabitants of the former complain that the ease with which liquor is obtained in the latter not only nullifies the effect of their restrictions but attracts to their non-restriction neighbours the native trade which would legitimately fall to them. The evidence from the Transkei shows that the effectiveness of the restrictions varies directly as the distance from the border. Prohibited areas, to be of any use, must be large, while areas under the jurisdiction of a local authority are comparatively small.

145. Nor do we think that in principle this is a matter to be decided locally. Whether the conditions of a particular area differ from those of the Colony generally is a question for persons who know the whole Colony, not for those who have special knowledge of the area in question. And, above all, the native question in all its aspects is a national one. Any policy adopted should be pursued throughout the whole Colony—if possible throughout the whole Union—and no risk should be taken of its unity being destroyed through the action of local interests or of local sentiment. We are strongly opposed to the grant of any powers whatever of this nature to local authorities; the matter should be entirely in the hands of the Central Government.

CHAPTER 3.—THE EXTENT OF THE PROHIBITION.

146. Power to proclaim prohibited areas already exists in the Transvaal by virtue of section *thirty-seven* of Ordinance No. 32 of 1902: "No licence under this Ordinance shall be granted in respect of any premises situated . . . . . in any area partially occupied by coloured persons and which may be proclaimed by the Lieutenant-Governor as an area within which intoxicating liquor shall not be sold." This provision has, however, never been put into effect, so that we have no local experience to guide us. The idea of the provision was probably taken from section *twenty-one* of the Cape Colony Act No. 28 of 1883, which runs: "In districts where aboriginal natives of South Africa are located or resident or are congregated upon public or other works or mines, the Governor may define areas, within the limits of which it shall not be competent for any licensing court to authorize the grant of a licence for the sale of liquor except with the permission of the Governor." This has been put into force in several areas in the Cape Colony, but its effect has been a good deal reduced by a decision of the Supreme Court to the effect that it is *ultra vires* to include in such an area any town or tract of country mainly occupied by Europeans (*R. v. Mathebus*, 20 S.C. 403). Such an exempted spot in a prohibited area naturally tends to become a centre for the illicit trade.

147. In the native territories of the Cape Colony there are no licensing courts; the chief magistrate alone grants or refuses applications for licences. There are sixty-four licensed houses at present. No liquor may be imported into the territories without a permit. There is a certain amount of illicit trade, partly due to some of the licensees and partly to smuggling over the frontier. It is most common in the villages, but is not on the whole an evil of great magnitude. It might be materially reduced if there were no licences at all in the territories; but this would cause considerable inconvenience to travellers and European residents. In the District of Herschel, however, though it has a licensing court, no licences have ever been granted. Presumably the inconvenience has not been found intolerable.

148. In view of the variety of systems which have been found desirable in various localities and of the fact that, if the native shows any signs of progress in ability to resist liquor that variety will probably increase, we think the widest possible range should be allowed to the Government as to the extent of prohibition within every such area. We recommend that, within proclaimed areas, it shall not be lawful to grant any licence without the consent of the Governor, and then only subject to such conditions in every respect as the Governor may prescribe.

PART V.—PUBLIC CONTROL.

PART V.—PUBLIC CONTROL.

CHAPTER 1.—THE INFORMATION AVAILABLE.

149. With reference to point (*e*)—

> "Whether the sole and exclusive control over the supply of intoxicating liquor should in any circumstances be placed under the Government or a local authority or of associations of persons formed to devote the profits made from the sale of such liquor for approved public purposes, and, if so, under what circumstances"—

there is very little direct evidence available; with regard to Government control there is none. There has been one example of control by special associations, i.e. The Public-house Trust at Durban. That Trust was established in 1902; it owns three houses, one at the Bluff, one near the foot of the Berea Road, and one in Greyville. Its professed object is to reduce the quantity of drink sold by avoiding advertisement, while at the same time providing adequately for the legitimate needs of the neighbourhood. The Durban Police do not, however, consider that these places are any better managed than the ordinary public-house. An attempt has also been made to diminish the quantity of intoxicating liquor drunk by selling tea and coffee at the bar. This continues at two of the houses, but has been discontinued at Greyville as there was no demand.

150. Financially, the Trust has not been a success. During the first year it made a profit, and handed over a sum of money to be applied for public purposes. Since then it has been steadily making a loss until the last financial year, when a considerable profit was made, though, as yet, the arrears have not been wiped off, and the association is not in a position to pay any dividend, much less to apply any superfluous profit to public purposes. The association is limited to paying dividends not exceeding 6 per cent., but such dividends are cumulative.

151. There has also been one experiment in the municipal sale of liquor, also at Durban. The Town Council has, since February, 1909, undertaken the monopoly of supplying kaffir beer to natives. It has established three shops in different parts of the borough where kaffir beer brewed by the Municipality is sold by their own servants. At the time of our visit to Durban (May, 1909) the experiment was not of long enough standing to warrant any final conclusion being drawn from it. But our impression of it was very favourable, and we were informed that, since its inception, there had been a marked decrease of native drunkenness within the borough. This experiment, however, bears rather upon the question of methods of supply to coloured persons than upon the general principle of public control.

152. We have had a little evidence as to the effect of control by associations in other countries, but mainly the impressions of passing tourists, and, owing to the meagreness of this evidence, no conclusions can be based upon it. The only other source of information to which we have had access is the literature dealing with the question, principally with the Scandinavian experiments. This literature is unconvincing, as it appears on the face of nearly every book on the subject that it has been written with the purpose either of supporting or of opposing such experiments. No doubt the authors are honest in their views, but those views are biassed.

153. For these reasons we are not in a position to come to any definite conclusion on this part of our reference. It may, however, be worth while to summarize the arguments which we have come across on either side.

CHAPTER 2.—ARGUMENTS IN FAVOUR OF PUBLIC CONTROL.

154. The interest of the State is to restrict the consumption of alcohol. Equally clearly the interest of the trade is to increase that consumption. This antagonism of interests is not temporary or accidental; it is permanent and essential. It is clear that the existence of a rich, organized, and influential body whose interests are opposed to those of the public constitutes a danger.

155. The substitution of a vendor desirous merely of supplying the existing demand for a vendor desirous of opening new markets would seem likely to result in a more temperate use of liquor. Governments, however, have a very ardent desire for revenue, especially revenue obtainable by some less unpopular means than direct taxation. Possibly any increase in general temperance would be reflected in increased prosperity and a consequent increase of revenue from other sources, so that the Treasurer could regard without dismay a falling-off in the revenue derived from liquor, being confident that the deficiency would be otherwise supplied, although Treasurers are apt to have a preference for a known and accustomed source of income over speculative sources which may require the imposition of new and unpopular taxes. But on the whole we think this danger not great. A modern Government, however, pressed for money, could not, for very shame, adopt trade methods of pushing liquor at its constitutents.

156. It is pointed out that the actual distribution of liquor, and therefore the opportunity for pushing its sale, quite irrespective of the wishes of the Ministry, must be in the hands of salaried employees. Each of these will have a strong financial interest in retaining his billet, while a steady decrease in the consumption of liquor will mean that year by year there will be less employees required. No doubt the average South African civil servant has been trained by circumstances to a keen scent for approaching retrenchment and to considerable ingenuity in avoiding it, but we hardly think that his zeal in disposing of liquor will drive him to work overtime in defiance of the wishes of his superiors.

157. It has been argued that the adoption of the liquor trade by the Government would increase sales because certain persons who are now kept out of public-houses, not by any sense of the evils of drink, but because they consider public-houses disreputable, would then immediately regard them as respectable and would go and drink in them. If there really exists a class which conducts the affairs of life on these lines of reasoning, we think its opinion and actions should have no influence whatever upon the policy of the State.

158. On the whole, the balance of probability seems to be that public control would tend to decrease sales.

159. There is one respect in which the elimination of private interests in the sale of liquor could not fail to be a gain. The absence of any section of the community with a direct financial interest in the continuance of the *status quo* must render it easier to alter the law in any direction which may be thought desirable for the common good.

160. It has been contended that the Government would supply more wholesome liquor than private traders do. We do not know that experience of Government monopoly in Europe bears out this probability. Any one who has tasted tobacco in France would probably be of the opposite opinion. No doubt no one would have much interest in supplying inferior liquor; on the other hand, no one would, in the absence of competition, have much interest in supplying good liquor.

161. Government control of liquor could certainly be made to result in increased revenue, and it is undoubtedly a sound principle that the profits of a State-created monopoly, which (so long as any restrictions are maintained) the liquor trade must always to some extent be, should go into the coffers of the State. Immediately a licence is granted in respect of any premises, the rental value of those premises goes up with a bound. The increased value is a direct creation of the public, and it is impossible to construct a rational argument for giving it away to a landlord selected at haphazard. The same reasoning applies to any "monopoly value", over and above ordinary business goodwill, which accrues to the actual licensee, who is usually a tenant.

162. It is said that the Government would assist the sale of local wines more than any private traders do at present. It may be doubted whether this would be a proper use of a Government monopoly, but such a policy would certainly be open to the Government, and would be in accordance with the present trend of feeling throughout South Africa.

CHAPTER 3.—ARGUMENTS AGAINST PUBLIC CONTROL.

163. Besides the arguments to which we have already alluded, it is said that for the Government to deal in liquor would be impracticable. It is done in other countries, notably in Russia, and there seems no reason why the Government of the Transvaal should not be as efficient as that of Russia. Indeed, the Railway Administration here has already embarked upon the business to a considerable extent, and, apparently, with good results. We do not propose that the Government should undertake the business of a hotel-keeper; that would be left, as now, in private hands, while the bar alone would be managed by public servants. It is true that, from an ordinary business point of view, the work of a salaried employee is never so efficient as that of an owner personally interested, but this proposition, if undertaken, would not be undertaken from an ordinary business point of view. That Governments can undertake highly organized and widely extended businesses with a reasonable measure of success is proved by experience of post offices and railways, and we see no reason to suppose that a popularly elected Government, liable to be constantly harassed by questions in Parliament, would, as some witnesses have suggested, disregard public convenience.

164. A grave objection which has been brought forward is that handling the liquor trade would tend to corrupt the Government. Of course, the Government will be exposed to political pressure by persons financially interested in their methods of distributing liquor, such as the producers, but this form of corruption is not peculiar to the liquor trade; it is common to all enterprises undertaken by the Government. There is no obvious reason why Government sale of liquor should be a special cause of corruption.

165. The total abstinence party say that the *status* of the Government in the general opinion will be lowered by its associating itself with this particular trade. The Government, however, is already very closely associated with the liquor trade; it licenses it, regulates it, and shares in its profits. To take over the complete control of it would be a change in degree but not in kind. At this moment every additional gallon of beer consumed means an additional 4d. in the Treasury, and no licensee has a more direct interest than this in increasing consumption. Whether, in those cases where the Government or public trusts have taken over the sale of liquor, consumption has been actually increased is a matter greatly disputed. We are not in a position to offer an opinion on the point.

166. It is further said that it is impossible to get good men to undertake the post of manager of a bar, and that, if such men were to be found, they would be demoralized by the trade. This is an expression of opinion which is as yet not supported by any evidence.

167. Another objection which has been brought forward is that the present system, under which the police keep a steady watch upon individuals who on their part have every inducement to retain their licences, leads to a more careful observance of the law than a system under which Government officers conduct the whole trade unchecked. It is no doubt true that the police, even if they continued to be entrusted with the task of supervision, would not think it necessary to keep so close a watch on a Government department as they do now on private licensees. Probably there would be no necessity for so close a watch, and there is the further consideration that many improvements could be enforced by departmental regulations which it would be impossible to embody in a statute.

168. The last argument against Government control is that it deprives the existing traders of their living. Of course the Government, in administering the trade, will give occupation just as the private trader does. Its employees will be either as numerous, more numerous, or less numerous than the persons at present engaged in the trade. In the first two cases the objection falls to the ground. In the third case, the fact itself will show either that the Government is conducting the business with a greater degree of economy and efficiency than the private trader, or that the consumption of liquor is decreasing, neither of which results would be a cause for regret.

CHAPTER 4.—THE PUBLIC-HOUSE TRUST SYSTEM.

169. This system has, against the system of direct control by the Government, the advantage that it keeps the sale of liquor largely outside politics and leaves politics comparatively unaffected by the liquor question. But it seems to be at least doubtful whether the system has been successful in those countries where it has been tried, and there is reason to doubt whether its chances would not be specially small in the Transvaal. Directors of such trusts should be men of considerable public standing who are keen on the subject, and who can afford to give a considerable amount of time to their duties. In the Transvaal, as in all young communities, such men are rare. Men of the right stamp are for the most part extremely busy, and there would be a grave danger that these directorships would fall into the hands of persons desirous of making, directly or indirectly, a profit out of their positions. Such a result would be disastrous.

CHAPTER 5.—CONCLUSIONS.

170. We think that the arguments in favour of public control are distinctly stronger than those against it. But *a priori* reasoning without the check of experience approaches dangerously near to speculation, and, for the reasons set out at the beginning of this part, we have been unable to avail ourselves of such experience as exists on this subject. Nor, in any event, could we recommend the system of public control at the present time because of one consideration which, in our opinion, puts the immediate adoption of the system outside the sphere of practical politics. It is obvious that to abolish private interests in the supply of liquor would be a revolution, and no such revolution can be effected unless it has the support of a strong body of public opinion. At present no such body exists; both the trade and the total abstinence party are strongly opposed to the experiment, although upon different grounds, and the public at large has not manifested any interest in the matter. Whatever the merits of the system may be the time is not ripe for its adoption.

171. At the same time there is a great deal to be said for the principle. It is obvious that the desire for alcohol is one of the strongest passions of humanity; it is equally obvious that the desire for money is another. The effect of these two passions working in the same direction is enormous, and no one has ventured to assert that it makes for good. A proposal which promises a radical change in this position ought not to be lightly discarded, and the fact that it is impracticable at present is no reason why it may not be useful in the future. The experiment which we have suggested of Government sale to natives may, if successful, educate public opinion upon this point. In section *seventy-nine* of Ordinance 32 of 1902* we have a recognition of the principle which may prove useful at some future time, and it would be a pity to close the door by repealing this section. In fact, we think it would be well to extend the section so as to cover the Government as well as local authorities and public associations.

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* *Section 79 of Ordinance 32 of 1902.*

1. The sale of liquor by retail save as hereinafter excepted in any village town or ward of a municipality may be placed under the sole and exclusive control of any local authority or of any company or association of persons formed for the purpose of devoting any profits made from the sale of liquor or such portion thereof as the Governor may approve of to some public purpose by a vote to that effect of the majority of the voters or if there be none of the white male persons above the age of twenty-one years residing in such village town or ward.

2. If after such a vote has been taken and before it has been revoked as hereinafter provided such local authority company or association with the approval of the Governor applies for certificates for the grant or renewal of licences for the sale of liquor under this Ordinance at any meeting of the licensing court held after the taking of such vote it shall not be lawful for the said court to grant any certificate for the issue or renewal of a licence for the sale of liquor by retail to any person other than such local authority company or association but it may grant to such local authority company or association certificates for the issue or renewal of any licences to sell liquor under this Ordinance as such local authority company or association may apply for; provided always that the application for certificates for the issue of licences shall be made by such local authority company or association at the first or second meeting of the licensing court held after the taking of such vote as aforesaid; and provided further that such vote as aforesaid may be revoked by a vote of the majority of the voters or white male persons mentioned in sub-section (1) taken in the same manner as such previous vote after the expiration of three years from the date of the taking of such previous vote or before the expiration of three years if the Governor on good cause shown shall direct a fresh vote to be taken.

3. Any such local authority company or association obtaining any licence for the sale of liquor shall be deemed and taken to be the holder of a licence under this Ordinance and shall be subject to the same duties and obligations and liable to the same penalties to which the holder of a similar licence under this Ordinance is subject and liable to save and except the penalty of imprisonment provided that such exception shall not apply to any servant of such local authority company or association contravening the provisions of this Ordinance.

4. The provisions of sub-sections (3) (4) and (5) of the last preceding section shall *mutatis mutandis* apply to this section.

PART VI.—THE TIED-HOUSE SYSTEM.

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CHAPTER I.—PRESENT CONDITIONS.

172. The principal matter falling under reference (*f*), and not expressly alluded to in any of the other terms of reference, is the tied-house system. There is no doubt that the system has greatly increased in the Transvaal of late years. Of the bars and bottle stores on the Rand at least 160, or 42 per cent., are tied either to brewers or to wholesale wine and spirit merchants: often to both.

173. The essence of a tie is that the licensee agrees to purchase all his supplies, or all his supplies of a particular class, from the tying firm. In England this is effected in one of three ways. The licensee may be merely a salaried manager of the wholesalers; he may be their tenant, they owning the premises; or he may have borrowed money from them on condition of exclusively dealing with them. In the Transvaal we have found no cases of the licensee being merely a manager, though they may exist; the other two methods are in use.

174. The system of tying houses to breweries and to large wine and spirit dealers has been objected to on the ground that

(1) tied houses push trade more and are worse conducted than free houses;
(2) they offer less variety and inferior quality to the consumer;
(3) they are less under the control of the licensing court;
(4) they put up prices;
(5) they tend to monopoly.

175. With regard to the conduct of tied houses as compared with free, it would at first sight appear that in both cases the interest of the licensee must be to sell as much drink as is compatible with the retention of his licence. But, in fact, the danger of losing the licence is much more serious to the independent publican than to the wholesaler. To the former the licence is his living, to the latter it is an incident; if one of twenty licences goes the wholesaler will try to sell an increased amount under the other nineteen in order to recoup himself. Also, an individual has other restraints. He is interested in the reputation of his house, apart from its profits, while a brewery or a wholesale firm is usually a soulless corporation which exists to make profit, and for no other purpose. In many cases, also, the tied licensee, who is the man upon whom the conduct of the house directly depends, has so little actual interest in the licence that he will not care greatly whether he loses it or not; the loss falls on the brewery, not on him. Sometimes, no doubt, the tied licensee has a substantial sum in the business and good hope of doing well out of the licence, and sometimes the free licensee is embarrassed and desperate. But as a rule it is clear that the tied man cannot have the same interest in the retention of the licence as the free man.

176. This objection is counteracted to some extent by the supervision exercised by the wholesalers over their tied houses. But this supervision must naturally, for the reason given above, be principally directed to increasing profits, i.e. sales, and only incidentally to looking after the conduct of the house. Since the 1st January, 1906, on the Rand renewals have been refused to about 14 per cent. of the tied houses and to less than 6 per cent. of the free. It is therefore clear that the conduct of the latter has been found more satisfactory.

177. Another result of the tying system is to get an inferior class of men. There is no doubt that the individual trader with a moderate capital of his own, trading independently, is a better type of citizen than the man who—by one method or another—is compelled to carry out the orders of a wholesaler. The independent trader is also more permanent. Of the 220 transfers of retail licences which took place at Johannesburg during three and a half years, 163 were of houses whose names were given to us by the trade as being tied. Since there are only 79 of such houses as against 123 said to be free, the tied houses change hands on an average about once in a year and nine months; the free about once in eight years. It is certainly desirable that licences should remain year after year in the hands of the same men, known to and trusted by the police and the licensing court.

178. We wish to state that we do not guarantee the figures as to the number of tied houses in existence. They have been furnished to us, however, by the tying firms themselves. As we have undertaken not to publish this information except in a general form, we are precluded from giving the details upon which our calculations are based.

179. It is said that the system enables men without capital to enter business, and thus gives a wider range within which to choose suitable men. But the choice lies with the wholesaler, and the most suitable man for his purpose is the man who sells the most liquor.

180. The next charge against tied houses is that they offer to the public less variety of liquor than free houses, and that of inferior quality. As to variety, the assertion proves itself. A brewer is not going to buy a bar in order to sell anybody's beer; he buys it to sell his own beer, and that only. On this point the only defence is as to degree. It is said that some free houses only keep one kind of beer, but it is admitted that this is not usual. Again, it is said that all local beers are so much alike both in flavour and quality that it makes no difference to the public which they get—not a very convincing argument; even if it be true now there is obviously no guarantee that it will remain true.

181. One witness argued that it is a positive advantage to the public that only one variety of beer should be kept, because unless the barrel is emptied at night the beer goes flat, and it is easier to empty one barrel than three. In face of the admitted practice of free houses to keep two or three kinds this argument does not carry much weight, and obviously the difficulty can be met by the use of small barrels.

182. It has been said that breweries endeavour to discourage the sale of Cape wines in their houses, fearing the competition with their beer. We are inclined to think that this is not the case at present, but it is obviously a logical development of the tying system which must come in time. In the Transvaal that system is yet young, and, unless checked, it may be expected to develop as in England.

183. As to quality, it is again obvious that even if wholesalers are not yet using their power over tied houses to work off inferior goods, the system gives them an opportunity for doing so, which would not exist if the houses were free. The public can check this to some extent, but the closer the alliance between the ruling houses of the trade and the greater their dominance the less will the public or the retailer be able to resist. This alliance and dominance are growing at a rapid rate.

184. The representative of one large wholesale firm said that his firm would get for their tied men any liquors for which they asked, whether their own brands or not. But against this the form of agreement used by that very firm contains a covenant to push the brands in which the firm is interested.

185. The next objection taken to tied houses is that they are less under the control of the licensing court and the police than free houses. Whenever there is anything against a tied house, the supporting firm, by virtue of the irrevocable power of attorney which they always hold, immediately make an application for transfer, and a transfer is very often regarded as condoning the offence. Of course it may be said that, when a licensee has contravened the law, the best thing is to get rid of him at once, but the mischief is that the real controllers of the house—the wholesalers—are thus enabled, at little risk, to stimulate their tenant to push sales to the verge of the law. If that verge be passed, they often contrive to avoid the natural consequences. It is an instance of the evils of divided responsibility.

186. It was certainly not the intention of the statute that the licensee should be, as he often is, a mere dummy for the substantial owner. What was intended was that he should be controlled by the law only, and that he should fear only the licensing authority; certainly not that he should be a virtual servant of the wholesale liquor seller whose interest is to push the trade which the statute was meant to restrain.

187. As to the allegation that the system tends to raise the price of liquor to the consumer, it is an admitted fact that the three principal breweries have fixed the price of their beer by agreement at 3s. 4d. a gallon, while the breweries outside the ring are selling at 2s. 9d., and one of the ring breweries is actually supplying the military authorities at less than 1s. 6d. per gallon. Clearly this could not be done—or at any rate could not be done so easily—but for the tying

system, for in the absence of that system either the outside breweries would get the trade or the ring must reduce their prices. The ring contend that the additional expense falls on the retailer, not on the consumer, and, in fact, the price of a glass of beer has fallen from 1s. to 6d. But it is obviously dangerous to the consumer that a coterie of brewers should be in a position to fix prices irrespective of competition. Among wholesale wine and spirit merchants also there is an agreement as to certain prices.

188. The fixing of prices by a ring has been defended on the ground that it prevents the small man from being undersold by the large dealer. Assuming this to be a good thing, it is not generally the aim of rings, nor does it long continue to be the result of their action.

189. Many of the above complaints are simply manifestations of the evils attendant on a monopoly, and it cannot be doubted that this system does tend to create a monopoly. The ordinary check on inflated prices—competition—is destroyed when no outside brewery can possibly start, and it certainly cannot do so when the greater part of the possible purchasers are controlled by existing breweries. The fixing of a ring price shows that the stage of monopoly is very nearly reached already, and it will certainly develop unless existing conditions are modified. The comparatively small number of licensed houses in the Transvaal, the fact that they are by statute limited in number, and the dominance attained by a few firms in a comparatively short time show that the danger is imminent. The tendency is for the licensees to fall more and more into the hands of a wholesaler. Another evil of monopoly is to concentrate in a few hands, and, therefore, to render still stronger the enormous influence of the trade, which is already too great.

190. It may be said that this tendency is not confined to the liquor business, but is showing itself in all branches of trade. But in the liquor trade, and in that alone, the State is directly assisting the tendency by restricting the number of licences and thus facilitating the operations of monopolists. It is reasonable that it should take steps to counteract any evils resulting from its own action.

191. In favour of the system it is urged, besides the arguments already set out, that it

(1) improves the class of buildings by interesting corporations with large capital;

(2) gives the tenant a more considerate landlord, as the latter has more interest in the business:

(3 enables the wholesaler to calculate more accurately the volume of business to be anticipated and thereby steadies the trade.

192. It is to be observed that the first argument is somewhat illusory. The money to pay for the accommodation offered to the consumer must ultimately come out of the consumer's pocket; if it was found that he would not pay enough for it, it would no longer be offered to him. Breweries are no more philanthropic institutions than are independent publicans philanthropists, and if it is found that it pays brewers but not publicans to put up palatial hotels, the only explanation is that the brewers and not the publicans get the lion's share of the profit derived from selling beer. If all licensees were free to buy from what brewery they pleased, more of the profit would fall to the retailer, and the competition between a number of independent licensees would certainly do more for the public than will be done by a monopoly.

193. If it be said that the licensees have not the capital to invest in good buildings, the answer is that capital invariably moves in any direction where it can be most profitably invested; if the public will pay for good accommodation there is no doubt that it will be forthcoming.

194. With regard to the second argument, the 62 retail licensed houses in Johannesburg which are owned by wholesalers have, in three and a half years, had 81 transfers, while the remaining 140 have had 145 transfers. In other words, the house owned by a wholesaler changes hands 130 times, while a house not so owned changes 103 times, which does not look as if the wholesaler's tenants thought themselves specially fortunate.

195. The third argument is probably sound, but is of more interest to the trade than to the public.

196. The system is decidedly against the public interest.

CHAPTER 2.—REMEDIES.

197. It was suggested to us as a possible remedy that licensing courts should carefully scrutinize all agreements and should refuse to grant or transfer licences where the agreement seemed undesirable from the public point of view. This is an extremely partial remedy; each court might take a different view of the precautions necessary to prevent the system growing up, and some courts might not desire to prevent it. The *personnel* of the courts is liable to be constantly changed, and their views may often vary, while the policy of the trade is constant and invariable—"sell more drink". In the long run the latter must beat the former.

198. The next proposal is to grant more licences, and thus extend the area of competition. No doubt the granting of enormous numbers of licences does have the effect of breaking up the system; it has done so in Ireland. But the evils of unrestricted licensing are so great as to put this course out of the question, especially in a country with a large native population.

199. We think that the best way of attacking the system would be by invalidating all contracts likely to interfere with the licensee's direct relations with the licensing court. Such contracts are of three kinds:—

(1) An agreement that the licence shall be regarded as the property of some person other than the licensee.

(2) An agreement to purchase anything exclusively from any person or firm.

(3) A perpetual mandate to apply for a transfer of the licence.

200. We therefore recommend that

(1) no agreement for the sale, pledge, transfer, or other dealing with a licence should be of any legal validity until it has received the approval of the licensing authority;

(2) no agreement by a licensee to purchase any class of article exclusively from any person, firm, or class of persons should ever be valid;

(3) no power of attorney from a licensee to apply for transfer or removal should be valid for more than forty days if executed in South Africa, or for more than forty days, plus the usual course of post, if executed elsewhere;

(4) No security for or incident to any contract invalidated by the above clauses should be of any force or effect.

201. The objection that these provisions interfere with freedom of contract is unfounded. The proposals only amount to recognizing the public as having an interest in and therefore being in effect a party to any contract dealing with a liquor licence. That position once conceded—and the existing law, no less than general experience, amply concedes it—it follows, upon general principles, that the contract cannot be valid until assented to by the public. This conclusion we are proposing to put into effect.

202. Of course, it is impossible to foresee what methods of evasion of these provisions will be resorted to, and how far they will be successful, but we offer this suggestion as a step in the right direction. Experience will doubtless show gaps to be closed.

203. We do not think that any existing contract ought to be invalidated by the action of the Legislature. All such contracts should be respected. This can easily be arranged by excepting from the operation of the Act all contracts executed before a named date, if registered with every licensing court affected within (say) a month after the commencement of the Act. Such contracts will gradually die out and clear the ground, and their signatories will, under this scheme, have no ground of complaint.

204. Both the majority and the minority of the Peel Commission rejected the proposal to abolish the tied-house system as impracticable in England. There, however, the system had been the growth of many years, and involved enormous interests intricately interwoven with the whole commerce of the country. In the Transvaal it is as yet young, and we think it well worth while to make at least an attempt to suppress it before it attains unmanageable proportions.

PART VII.—AMENDMENTS OF STATUTES: GENERAL PRINCIPLES.

PART VII.—AMENDMENTS OF STATUTES: GENERAL PRINCIPLES.

CHAPTER 1.—INTRODUCTORY.

205. With reference to point (*a*)—what amendments, if any, are desirable in the existing licensing statutes—we propose, before dealing with detailed amendments, to consider the broad principles underlying all licensing legislation.

206. In the first place, the question arises, why it should be necessary to apply a special licensing system to the sale of alcoholic liquor instead of, as in the case of most other trades, allowing the Receiver of Revenue to issue licences to all applicants who apply for them.

207. It is clear that, so long as it is admitted to be necessary to subject the vendors of alcohol to special supervision, whether by police or otherwise, it is also necessary to limit the number of persons by whom and places where this business is carried on; no amount of police can supervise every trader in a large town.

208. This supervision is rendered necessary by the notorious facts that drink is largely responsible for rowdyism and violence, and that the criminal classes have a tendency to use houses of public entertainment both as meeting places among themselves and as places where they can most easily get into touch with their victims. So long as such houses are limited in number and their situation known, this tendency is a positive assistance to the police, who thus know the likely places to lay their hands on any person who is wanted. If unlimited bars were allowed, it would be impossible to keep an eye on all of them, and, by this state of affairs, the operations of criminals would be facilitated.

209. Also, in this Colony, the restrictions upon the sale of drink to natives render it necessary to maintain careful supervision over all persons whose business necessitates the possession of large quantities of liquor.

210. Some system of restricting the number of vendors of alcohol is in use in every civilized country, and there does not appear to exist anywhere any public demand for a change in this respect.

211. Quite apart from the necessity for supervision, the quantity and kind of alcohol consumed by any individual citizen has a considerable effect on his relations with his neighbour. His habits in this respect are therefore a matter in which the State has an interest, and it is a legitimate function of the State to enact such laws as may regulate those habits.

CHAPTER 2.—THE VARIETIES OF LICENCE.

212. We attach a tabulated statement (Annexure No. 7) showing in parallel columns the leading characteristics of the different methods adopted by the various South African Colonies for dealing with the sale of liquor under various circumstances. It must not be assumed that the class of licence named in the first column actually exists in all the Colonies. For example, no separate "hotel licence" is granted in the Orange River Colony or in the Cape Colony. In the former the requirements of persons living in hotels are met by endorsement on the "retail licence" (equivalent to the Transvaal "general retail licence") allowing sales to such persons at times otherwise prohibited, and in the latter by the grant of special privileges to the same effect to the holders of certain retail licences. The essence of a licence is, however, the permission to sell liquor under certain conditions; and these special grants, allowing the sale of liquor under conditions otherwise prohibited, have the effect of a licence, though they may be clothed with the form of endorsements, additions, or even (as in the case of sales on trains in the Transvaal) of exemptions.

213. The restrictions on licences being very numerous and various, it is impossible to condense them all into a statement of this kind, which must therefore necessarily suffer from the inaccuracy of incompleteness. The hours given, for example, are longest which can under the general law be allowed. In many cases licensing courts may—and in many districts they do—shorten these hours, but it would complicate the annexure to an impossible extent if all these variations were shown. It must therefore be taken only as a broad statement of the principal differences between the law of the various Colonies.

214. The first impression produced by a study of this table is the enormous number of different circumstances for which provision has to be made. Most of these distinctions are not artificial, but spring from the varying facts of life, and the precautions appropriate to each set of circumstances vary accordingly.

215. The first distinction to which we wish to call attention is that between the wholesale and retail trade. The true basis of this distinction is that the wholesaler exists to supply the retailer, the retailer to supply the consumer; and the importance of the distinction rests on the fact that liquor is very often a danger to the consumer, while it is none to the retailer. The latter will only buy as much as he can sell; the former, in many cases, buys an amount which injures him both in health and in pocket, besides making him a nuisance to his neighbour. In other words there is a danger in allowing the retailer to push trade which does not exist in the case of the wholesaler.

216. This distinction is ignored in the existing law, which lays down instead a purely arbitrary amount of twelve bottles as distinguishing a wholesale from a retail transaction, and applies the provisions of section *eighty-three* of Ordinance No. 32 of 1902 (which prohibit, in respect of sales of liquor, payment in advance and pledge) to wholesalers and retailers alike. That persons should not be tempted to expend money which they have not got, and possibly cannot afford, in obtaining liquor for consumption is a reasonable check on the passion which the alcohol-craving excites; but the retailer suffers from no such craving to buy more than he can sell, and therefore no such provision is necessary in dealing with him.

217. We would therefore suggest that the twelve-bottle limit should be abandoned, and that the holders of licences intended for wholesale trade (i.e. distillers', brewers', and wholesale licences) should be restricted to sales to licensees, but should for the purposes of that sale be allowed to employ travellers and should be relieved from the provisions of section *eighty-three*. Holders of all licences should be prohibited from employing travellers, and should be authorized to sell only upon the licensed premises; there should, however, be no limitation to twelve bottles of the amount sold. It is of course some convenience to householders to have tradesmen calling for orders, but few people order alcohol with such regularity as to make it worth the bottle storekeeper's while to call; and this small inconvenience does not balance the advantage of suppressing canvassing. The proposed restrictions on the wholesaler will meet the complaint that many wholesale licences are at present held by merchants who do a household trade and who, by making up cases of several different kinds of liquor, virtually sell by retail, which was not the intention of the licence.

218. The brewer occupies rather an anomalous position. He is essentially a wholesaler; his business is to manufacture, not to retail, beer. But it is an established custom among Transvaal breweries to deal direct with the customer as well as with the retailer. Such a custom is in our opinion undesirable, for reasons which we have already pointed out. In the case of those breweries who have tied houses we see no reason why it should not be suppressed; their legitimate market—the retailer—is open to them. In the case of the other breweries that market is, however, to a great extent closed, because a large number of the retailers are tied to the ring breweries. We should regret any legalization which encouraged what we regard, for reasons stated above, as an undesirable monopoly, and the only existing check on that monopoly is the competition of the smaller breweries. That competition is mainly carried on by dealing direct with the consumer. Such a business is retail, not wholesale, in its essence, and we think it should be treated accordingly. We recommend that any brewer who can obtain from the Commissioner of Police a certificate that he is not directly or indirectly controlling a tied

house should be allowed, in addition to the right of selling to retailers, the right of selling to consumers in response to orders, verbal or in writing, received at the brewery, and not obtained through any agent of the brewer.

219. Another distinction which we draw is between those licences which are intended to meet an existing demand and those which are intended educationally —whose purpose is to create rather than to satisfy a particular taste. Of the latter only one exists in the Transvaal—the malt licence—whose purpose can only be to encourage the sale of beer. The Cape and Natal recognize the same principle in their light wine licence and colonial beer licence respectively. Licences of this class can only be justified on one of two grounds; they exist either to encourage consumption of local products or to cultivate the public taste for the lighter forms of alcohol. The first object raises the whole question of the relative desirability of protection and free trade: and there is really nothing more to be said on this point—the subject is one too widely disputed and too extensive to be dealt with as a mere incident of our reference. But, as a matter of fact, these two objects do, in South Africa, point in much the same direction. The principal alcoholic products of this country are beer and wine, which are generally considered to be healthier and to do less to promote drunkenness than spirits. We think that the malt licence should be extended to cover wines of a low alcoholic strength.

220. Another direction in which an attempt might be made to cultivate the public taste is by encouraging establishments more akin to the Continental café and less to the English public-house. Any one who has compared the two must have noted the superiority of the former from the point of view of temperance. This may of course be due to racial, climatic, or other differences; but at the same time fresh air, publicity, and the presence of wives and children do act as restraints on drunkenness. The climate of the Transvaal during the greater part of the year is suitable for such establishments.

221. The earlier attempts to popularize the café in England were not very successful, but Earl's Court, which is a collection of cafés on a very large scale, is as well conducted a place as could be desired and shows no sign of degeneration; and the places in the Transvaal most nearly approaching to cafés are well conducted. If such places are to be made attractive to family parties care must be taken that tea and other refreshments as well as alcohol are provided. We think that it would be a good thing to lay down that a *minimum* proportion of the number of retail licences allowed under section *two* of Act No. 33 of 1909 shall be malt and wine licences; preference should be given to applicants whose premises have suitable gardens or, in other words, are approved pleasure resorts.

CHAPTER 3.—LOCAL OPTION.

222. This principle, i.e. that the inhabitants of any locality shall be entitled, under certain restrictions, to prohibit either individual licences or any licence at all from being granted or renewed within that locality is recognized in sections *thirty-three*, *seventy-eight*, and *seventy-nine* of Ordinance 32 of 1902. Against the principle itself nothing has been said except that for the majority to interfere with the personal habits of the minority is an exercise of tyranny. Such interference by the community with the individual is nowadays common in every department of life and tends to increase with the increasing complexity of our civilization. It cannot be denied that the existence of licensed houses may cause inconvenience to many persons who do not use them, and, if an absolute majority of the inhabitants of any neighbourhood feel sufficiently strongly on the matter to vote against such houses, the probability is that their comfort is really affected. The principle has for years been in effective use in the Cape Colony and Natal, and does not appear to have given any reasonable ground for complaint.

223. The question as to who should be entitled to vote has only produced one suggestion—that the word "male" should be deleted from sub-section (1) of section *thirty-three*, thus allowing women to vote on this subject in villages which have no municipal roll. The present position is anomalous; in municipalities all

persons on the municipal roll (which may include women) have votes, while, in smaller villages, the matter rests with men exclusively. We think that uniformity should be established, and there is no way of doing this except by referring the decision to those persons whose names are on the only list which exists both within and without municipalities, i.e. the Parliamentary Voters' Roll. Under the present law it is impossible, outside municipalities, to ascertain with certainty what the number is, an absolute majority whereof is required by law; an absurd position. Without going into the general question of female suffrage, we think that, since women, as a class, do not use licensed houses, the question whether such houses shall exist has less interest for them than most public questions. Until they are placed on the Parliamentary Roll, it is impossible to give them a voice in this matter without sacrificing uniformity and certainty, which we do not think it worth while doing.

224. The next point is as to the majority which ought to be allowed to enforce prohibition. Some witnesses have contended that a bare majority ought not to be sufficient, but it is to be observed that the majority required is not merely a majority of those voting but an absolute majority of all the voters on the register. Such a majority indicates a very considerable preponderance of opinion, and we do not think it necessary to increase it. On the other hand, the total abstinence party have strongly urged that a two-thirds majority of those actually voting should be sufficient. They argue that other elections, as of members of parliament or town councillors, are invariably decided by the majority of the votes cast. There is, however, a very great difference between the election of a delegate and direct legislation. The delegate, who has time to study the interests involved, experience to judge of them, and a certain measure of responsibility for the success of any measure which he supports, will very often cast his vote differently to the way in which his constituents, who are sometimes ignorant and irresponsible, would have done. A local option vote is the only occasion on which the mass of the electorate is entrusted with the power of putting into immediate effect their own opinions, and, as these are usually formed without either the knowledge or the ability desirable in serious matters, we think it reasonable to secure that the opinions thus put into effect shall at least be really those of the greater number of persons affected.

225. It has been said that the difficulty of obtaining an absolute majority is so great as to render the section practically inoperative. The facts do not, however, bear out this view; the witnesses all admitted that they had made no serious attempt to put the section in force. The only authentic case of such an attempt which has come to our notice is that which took place at Alberton, in the Germiston District, during the sitting of the Commission, and in that case the prohibitionists were successful.

226. Another argument brought forward in support of the proposal to substitute a majority of the votes cast for an absolute majority is that persons too apathetic to vote should not be allowed to have any influence on the result. We think there is a good deal to be said for the present provisions under which it rests with the party which desires a change to bring a sufficient number of voters to the poll to demonstrate that the desire is a real one, and we see no reason why a person who is quite content with the existing state of affairs should be required to go to the poll in order to demonstrate that contentment. Also, it is an unjustifiable assumption that every person who does not vote is apathetic. Sickness, business, and absence are quite legitimate excuses for not voting. It is true that some of the persons so compelled to absent themselves would probably, if present, have voted for the change, but we think it not unreasonable to allow this slight advantage to the party which desires to leave things as they are. It is to be observed that, once prohibition has been carried, this advantage shifts to the side of the prohibitionists.

227. Another matter to which attention has been called by the opponents of the absolute majority system is the migratory nature of much of the population of the Transvaal, more especially in mining centres. This is said to render it all but impossible to get an absolute majority for anything, as, even a few months after the voters' roll has been compiled, a large number of voters have left the address given in the register and either cannot be found or have ceased to have

any interest in the affairs of the locality in which they are registered. This argument is, however, double-edged. Since persons so removing have no interest in their former locality, and their successors no voice there, it is evident that the only persons who are at once willing and able to vote for any given locality are those who are actually residing there when the election takes place, and were also residing there when the last register was compiled. It follows that the more migratory a population is the smaller proportion of its units will vote at such an election and the less representative of existing opinion will the result be.

228. It is said that the older residents have a better right to be heard. We do not know that to remain in one particular ward instead of moving to another is any special proof either of intelligence or of virtue, and it is evident that the interest of a resident in the result of such an election is proportionate, not to the period during which he has resided in the locality, but to the period during which he is going to reside there after the vote has taken effect.

229. In fact, the more migratory a population, the less suitable to its needs is the method of direct voting upon a matter which touches every resident. We think it would be prudent to require that no vote should be taken except within three months after the publication of a new register. This would minimize the danger of having the habits of the present residents regulated by the votes of former residents, who are not themselves affected by the scheme which their votes carry, or by the votes of a minority of themselves, and it would also prevent such a vote being taken more often than a new register is made, which is quite often enough.

230. The next question is as to what should be taken as the unit for this purpose. In the smaller places the town or village is the natural unit. In the larger municipalities the existing provision that the ward as well as the municipality may stand by itself is suitable in some respects. The residents in a purely residential ward often wish to exclude a licence from that ward, though they do not wish to do so from the town as a whole, and it is reasonable to consider their wishes in this respect. In the business portions of the town, on the other hand, all the inhabitants, wherever residing, have a common interest, and it would be unreasonable to place the control of such centres entirely in the hands of the local residents. Another difficulty arises from the immense size of the wards, necessitated by the adoption of proportional representation at Johannesburg and Pretoria. These include areas which have no common interests whatever beyond those which they share with the whole municipality, so that nothing is gained by treating them as independent units for the present purpose. Upon the whole, we think it will be best to abandon the ward as a unit and to substitute the Natal provision, under which the residents within 150 yards of any proposed new retail licence may vote its grant. As regards business centres, this provision is certainly open to the objection set out above, but we only suggest applying it to new licences, which greatly modifies the force of that objection.

231. It is to be observed that there are no provisions as to who shall bear the cost of these elections. It seems scarcely reasonable that this should be placed upon the public when an election may be provoked by an insignificant minority. There should be some provision under which any person or body of persons demanding a poll should guarantee the cost in case the position remains unchanged by the vote. If the result is a reversal of the previous policy, the poll has been justified, and the public should bear the expense.

232. In every case where the question is that of closing or opening an area to licences, we think that all voting should be by ballot. In the case of Alberton, above alluded to, there was much dissatisfaction expressed with the existing system, which provides (outside municipalities) no guarantee of secrecy. Obviously, the subject is one on which voters are exposed to a good deal of pressure. Where, however, the question is merely one of prohibiting an individual licence, the importance of the matter does not warrant the expense and trouble of a poll; and we think that the system of memorials laid down in section *thirty-three* and used in the Cape and Natal should be adhered to.

233. Under the present law, a prohibition vote has no effect on hotel or railway station licences. We do not think that these exceptions ought to be maintained. In the case of hotels, the exception is, presumably, in favour of travellers,

and we think that these may well submit to a deprivation acquiesced in by the residents. The same consideration applies to railway station licences. As long as there are free districts in the country, the railways ought to be able to arrange their refreshment rooms so as to fall within these, and, if the whole country votes for prohibition, there can be no necessity for railway refreshment rooms to sell liquor at all. It is a notorious fact that prohibition, to be effective, must be universal: any exceptions are certain to be abused. The only sales permitted within a prohibition district should be to passengers on long-distance trains while in motion, and by brewers and distillers (who cannot move their plant when a vote is taken) for delivery outside the district.

CHAPTER 4.—THE LICENSING AUTHORITY.

234. No part of the liquor laws is more important than that which determines the character of the licensing authority. Such an authority should, as far as possible, be unbiassed, acquainted with the conditions under which the trade is carried on, accustomed to some extent to hear evidence and appreciate it at its proper value, and not too busy to hear all that has to be said on all sides about the important questions necessarily submitted to it. Local knowledge is also desirable, both in saving the necessity for evidence and in enabling the value of evidence as to local requirements to be properly appreciated; yet such knowledge cannot easily be obtained except in persons who are imbued with a certain amount of feeling one way or the other. The knowledge of local conditions should not be that of one class only; the necessity for bars is regarded very differently by different people. There should be a certain continuity observed in order to prevent the uncertainty arising from constant changes of policy: yet, modifications of policy are demanded by changing circumstances, and it is undesirable that cast-iron rules should be laid down and inflexibly adhered to.

235. It is not easy to decide by what means these qualities can best be secured. The two obvious methods are nomination and election. Of these election is the better method of ascertaining the general feeling of the public immediately affected, but it is open to doubt whether, on a subject so surrounded by difficulties the uninformed opinions of the man in the street are the best guide. Such opinions would undoubtedly be influenced by the organization and canvassing which would be undertaken both by the trade and by the total abstinence party, and these conditions would probably not be favourable to the constitution of a body with the qualities desired.

236. This difficulty would be avoided to some extent by using some means of secondary election, such as nomination by locally elected authorities. The principal objection to this is that the nomination of members for the licensing court might be regarded both by the trade and by the total abstinence party as the principal function of the local authority, and, if this view prevailed, the result would certainly be deterioration in the general work of the latter.

237. Any system of nomination is open to the criticism that men may be appointed who are out of touch with local feeling, and there is wide difference of opinion as to the class of member who ought to be nominated. The appointment of an official majority has been advocated on the ground that officials have more knowledge of the trade than the general public, and has also been complained of on the ground that they are out of sympathy with the public requirements. Constant change of members has been put forward as desirable on the ground that it prevents the licensing authority from getting under the influence of the trade, and has been objected to on the ground that, until a member has served for a considerable time, he lacks the experience requisite to make him competent. Business men have been declared to be superior to professional men as knowing more of the conditions of the trade, but, in small places at any rate, it is difficult to find business men who are not more or less closely connected with traders carrying on the business of liquor selling. That persons financially interested in the trade should be excluded seems to be universally agreed; a good deal has been said of the necessity to exclude also teetotallers. Most people holding the latter

view would be prepared to accept a provision that every member of the licensing authority should, before sitting or acting as such, make a declaration that he is not opposed in principle to the sale of liquor.

238. The actual experience of South Africa furnishes examples of several methods of creating a licensing authority. In the Transvaal, the Orange River Colony, and the country districts of Natal, the court is purely nominative, being appointed by the Governor. In boroughs and townships in Natal, the system of secondary election is in force, the court being chosen by the town council. In the Cape Colony a middle course is followed, the court consisting of three members chosen by the Divisional Council, one from each municipality in the district, and two nominated by the Governor, besides the magistrate of the district, who is *ex officio* chairman, as, indeed, he is everywhere except in Natal boroughs and townships.

239. Both the Transvaal and Cape Colony systems appear to have given satisfaction: the method followed in Natal boroughs and townships meets with less general approval.

240. We think that the evidence shows that the Transvaal system of pure nomination by the Government, and the Cape system of partial nomination by local authorities, have both worked well. With a view to attaining uniformity, we recommend, considering how much more difficult it is to withdraw than to grant any form of popular representation, that each municipality or other local authority in any district be entitled to nominate one member of the licensing court, the Central Government retaining the right to nominate the remainder of the members, and, in any case, to nominate as many members (exclusive of the president) as are nominated by the local authorities.

241. With regard to the scope of the court's authority, there are some licences which cannot conveniently be left to them to deal with. It is obviously necessary that temporary licences shall be obtained from some permanent authority, so that it shall not be necessary to convene a meeting of the court every time one is wanted. The magistrate seems the natural person to exercise this authority, and we have received no representations that the arrangement is in any way undesirable.

242. The licensing court, being a purely local body, with no jurisdiction beyond its district, is unsuitable for dealing with brewers' and distillers' licences. Businesses of this nature concern the whole country, not merely the district in which they happen to be established. We think that such licences should be granted by the head of the Excise Department. The same may be said of any licence granting facilities to foreign firms to send travellers to the Transvaal; such travellers must necessarily do business all over the country, and it would be unreasonable to require them to apply to twenty or thirty different courts. Finally, we think that all forms of railway licences should be retained, as now, under the control of the Railway Administration, and all canteen licences under that of the commanding officer. Certain complaints of unfair competition have been made against railway station licences, with which we shall deal under the appropriate section. While we think it unnecessary to subject such licences to the control of the District Licensing Court, there should be some method in which grievances against them could be ventilated. We suggest that jurisdiction should be given to the court to hear any such complaints and to report their opinions to the Attorney-General for the information of the Government.

CHAPTER 5.—APPEALS.

243. On behalf of the trade it has been much pressed that licensing courts, instead of having, as now, an absolute discretion to refuse the grant or renewal of licences, should only be allowed to refuse on certain defined grounds, and that there should be a right of appeal from such refusal. The great majority of the witnesses in favour of this change only desire it with respect to renewals; there is no serious ground for suggesting it in the case of new applications.

244. In connection with the question whether the renewal of a licence ought to be discretionary or, in the absence of definite grounds for refusal, compulsory, we would quote a sentence from the Minority Report of the Commission which inquired into the Liquor Laws of the United Kingdom in the years 1896-1899 (known as the Peel Commission):—"It cannot be too often repeated that licensing business is administrative and not purely judicial business, and it is not right that the deliberate acts of those who have continuously studied the question should be overruled by a totally different authority which has not had the same opportunity for gaining an understanding of local conditions and needs." In our view, this sentence contains the essence of the matter. Licensing business is essentially administrative, and, that being so, the analogy constantly drawn between licensing courts and courts of law is altogether misleading. Courts of law sit to determine questions of absolute right—whether the defendant is entitled to his personal liberty; whether money is or is not lawfully due to the plaintiff. Licensing courts have to determine questions of expediency: whether the licensee should continue to possess an exceptional advantage from which the immense majority of his fellow-citizens are excluded. Questions of the first class should be decided on definite grounds; those of the second depend entirely on the indefinable faculty which we call "discretion" or "judgment". We think that misapprehension of the functions of the licensing authority is largely due to its being called a court. A court, in the ordinary sense, it is not, and we think it should be given some more neutral title, such as "committee" or "board".

245. It would be almost impossible to lay down in express words all the circumstances which would justify a refusal to renew a licence. One obvious case is that of a diminution of population. This is no longer a ground on which licensing courts are compelled, even against their will, to refuse renewals, but if a court decided that the number of licences which had been required in the height of a mining rush became excessive when the population had dwindled to a hundredth part of its previous dimensions, no one could say that such a decision was unreasonable or outside the discretion which such a court ought to have. Again, to sell spirits to a white man must always remain lawful so long as licences for the sale of spirits are granted at all. But any one who, day after day, sells a case or more of spirits to the same individual, knowing that the latter has no licence for their re-sale, is undoubtedly assisting the illicit trade and ought not to be entrusted with a licence. Many other examples might be cited. If definite grounds upon which alone a licence may be cancelled are to be laid down, they will have to be laid down in such wide terms as to take away their definiteness.

246. This absolute discretion has been in actual practice in the Transvaal under the present law for upwards of seven years, and it may reasonably be supposed that any evil effects resulting from it would have become obvious by this time. It has been said that the power of the court to destroy a licence without definite grounds deters capital from being invested in the business, and prevents a good class of person from engaging in it as licensees. The facts notoriously contradict the first argument; immense sums have been invested under the existing law. Nor does the evidence support the second proposition. A witness who, on behalf of the trade, complained bitterly of the uncertainty of the law, stated that in his opinion the stamp of man who holds a licence in the Transvaal to-day compares favourably with the licensed victualler in any other part of the world.

247. We have sought in vain for concrete and demonstrable cases where the discretion of any licensing court has been abused for the arbitrary destruction of licences. Very few cases have been even alleged, and none of these are established. An amusing example of the dubiousness of such cases is that the representative of one of the great brewing companies gave us an example of alleged arbitrary cancellation, and a few days later another witness, who was strongly pressing the same point of view, incidentally mentioned this very case as one in which even the person deprived of his licence acknowledged the correctness of the court's decision. Nine other examples were given to us, and, after inquiry, we are satisfied that in every case the court concerned acted deliberately and upon sufficient grounds.

248. The great example of uncertainty put forward is the large number of licences which were destroyed under section *thirty-two* at the December sitting of 1908. It is to be observed that this was not in any way the result of the discretionary powers of the licensing courts: on the contrary, it was due entirely to the fact that the legislature had laid down a hard and fast line, and had prohibited licensing courts from exercising any discretion in the matter. It is common knowledge, stated at the time by the licensing courts concerned and since shown by their action under section *three* of the Act of 1909, that if those courts had had any discretion in the matter the licences in question would not have been destroyed.

249. The great majority of witnesses agree that the discretion of the courts has hitherto been exercised reasonably. They say, however, that they have grave doubts as to what may happen in the future, but they have not given any reasons for these doubts. Both on this point and on others witnesses, speaking for the trade, have relied to a remarkable degree upon *a priori* argument, and have constantly suggested that this or that may happen, but they have very rarely been able to produce concrete cases where the evils they dread have actually happened.

250. Complaints have been made that there is a lack of continuity in the policy of licensing courts. One example has been produced. In 1902 the Witwatersrand Licensing Court laid down a rule that no firm would be allowed to hold more than three licences. Subsequently they granted four licences to one firm. Thereafter again, reverting to the original rule, they deprived that firm of a licence against which there was no complaint. We agree that this is a hard case, but it appears to be unique.

251. Another argument is that the establishment of licensed premises, or at least of certain kinds of licensed premises, requires the investment of a large quantity of capital, and that there ought to be security for such an investment. The licensee has no ground of complaint in this; he knew the terms of the law under which he was investing his capital. From the point of view of the public, however, it may be worth while to encourage a good class of licensee by giving a certain measure of security, but there is nothing to show that such security is not given under the present system. It is clear that it was never intended to grant anything more than a reasonable expectation of renewal during good behaviour, and there is such an expectation now.

252. In the Orange River Colony, as in the Transvaal, no definite ground is required to justify the refusal to renew a licence. In Natal it is required, and our information goes to show that the result is not satisfactory. In the Cape Colony it would appear that, while outside objectors are confined to the definite grounds of objection set out in section *fifty-two* of Act No. 28 of 1883, the court itself may, under section *forty-eight*, take notice of "any matter or thing which, in the opinion of the members thereof, would be an objection to the . . . renewal . . . of a licence".

253. Our conclusion is that it is necessary for the proper administration of licensing business that the court should have authority to refuse renewals in the exercise of its discretion and not only upon grounds prescribed by law, and that experience has shown this provision to have worked well in the Transvaal.

254. With regard to the proposal to allow an appeal, there would be a good deal in its favour if renewals were only to be refused on definite grounds. The Court of Appeal could then decide whether those grounds had or had not been established by the evidence. But so long as the renewal of licences is treated as a discretionary and administrative matter there is nothing for a court of law to pronounce on. If there existed any body which might be supposed to have the qualifications necessary for a licensing court in a higher degree than the court itself, we could understand a proposal that an appeal should lie to such a body, which would have more knowledge and discretion than the licensing court. But no such body exists. The Supreme Court, to whom it is proposed to appeal, cannot possibly be so well informed as the local licensing court as to what is or is not desirable with respect to places so diverse as Johannesburg and Wolmaransstad.

255. It is no doubt true that in the licensing courts of small towns there is a great danger of bias, but that bias is much more likely to operate in favour of the licensee than against him. The constitution of any body with special local knowledge is inseparable from a certain amount of local prejudice. It is necessary

to make a choice between two evils, and to allow appeal to the Supreme Court would be to eliminate entirely the element of local knowledge.

256. Another argument put forward is that witnesses before a licensing court are not so closely examined as in a court of law. The natural answer is that they ought to be as closely examined as is necessary to show the applicant's case. Certainly appeals are not intended to allow parties to produce evidence which they have neglected to produce in the first instance.

257. As a precedent, the example of England has been cited, but the peculiarities of the licensing administration in England appear to be very little understood in the Transvaal. In England, the licensing court consists of a Committee of Justices of the Peace of the county, and the appeal lies to Quarter Sessions, which is simply the total number of justices of the peace for the same county. No similar body exists in the Transvaal; the whole system is entirely different. It must be remembered also that justices of the peace in England are entrusted with important duties, both administrative and judicial, while most justices of the peace in the Transvaal exercise no functions at all beyond the attestation of affidavits. Finally, the system has not given satisfaction, even in England. Neither the majority nor the minority of the Peel Commission were in favour of the continuance of Quarter Sessions as a court of appeal: they agreed in suggesting a new body, constituted in much the same way as the licensing court itself. We have no information as to the result of these suggestions: in any case, we think they would be quite unsuitable for the Transvaal.

258. Neither in the Orange River Colony nor in the Cape Colony is there any appeal. In Natal there is, but in Natal renewals may only be refused on definite grounds. We have seen no reason to suppose that the Natal system has been found superior to that of the other colonies.

259. It must not be forgotten that applicants have a right to bring the decision of the licensing court in review before the Supreme Court, whenever the former has in any way neglected or exceeded its statutory duties or powers.

260. In our opinion there should be no general right of appeal. We think, however, that on matters of law, as opposed to matters of fact and discretion, an appeal should lie to the Supreme Court. Licensing statutes involve many difficult points of construction, and the interests involved are often so important that the applicants should be allowed access to the highest legal authority, and ought not to be compelled to abide by the opinion of a tribunal principally composed of laymen. Such an appeal should be open to the objector, if any, as well as to the applicant, and should apply only in cases of renewal. Unless both parties are represented in the Supreme Court, the Attorney-General should appear to support the decision.

261. Unless there is a right of appeal, the question whether the court should or should not give reasons for its decision becomes unimportant. It is clear that the court ought to have reasons for its action, and that those reasons should be such as to bear the light of day. But there is grave difficulty in requiring reasons to be stated in every case. A licensing court, as at present constituted, may consist of eight members, and cannot consist of less than three. As a matter of fact, most courts vary from four to six. It may happen, and in practice it does often happen, that the members, while agreed on their decision, are influenced by different reasons, or, more often still, attach varying weight to the several grounds of objection brought forward. In such a case it is impossible to state the reason for the action of the court as a whole; all that can be done is to give the different reasons for the votes of the different members. Those reasons can only be given in each case by the member who is influenced by them, and many members have not the experience necessary to give a lucid statement upon what is often a complicated subject. Under the circumstances, it is practically impossible that the reasons for the court's action should be set out with accuracy.

262. When the decision turns upon a point of law, and there is, therefore, an appeal, that fact and the legal grounds for the decision should be stated. We think that the duty of directing the court on legal points should be left to the president; there is no advantage in requiring him to confer with his colleagues upon such a matter and thus to raise unnecessarily the difficulty alluded to in the last paragraph. We recommend that, when any question of law is raised, the president alone shall decide it, giving his reasons therefor, but that, otherwise, it shall not be compulsory on the court to give reasons for any of its decisions.

CHAPTER 6.—FREQUENCY OF SITTINGS.

263. Representations have been made to us that the court should sit more frequently for the purpose of dealing with complaints against licensees. Under the present arrangements, if the police have any complaint against the conduct of a house, say, in the month of July, there is no opportunity to bring it to the notice of the court until December. It is hard on the licensee that so stale a matter should be sprung upon him, and both sides suffer from the danger that evidence may be lost. If sittings were held once a month, all such complaints could be dealt with promptly and satisfactorily. In order to effect this it would be necessary to authorize the court, under certain circumstances, to destroy a licence during its currency.

264. An alternative suggestion is that the police should be required to notify licensees whenever they have matter of complaint. This, however, only meets a part of the difficulty. The loss of evidence, if the complaint cannot be investigated for several months, still remains, and, during those months, the licensee, if the complaint is a serious one likely to imperil his licence, will be under the temptation to conduct his business recklessly and thus make the most of it while it lasts.

265. Monthly sittings would have the further advantage of saving the necessity, in cases of transfers and removals, of obtaining, first, the sanction of the magistrate and two members of the court to a temporary change under section *thirty-eight* or *thirty-nine*, and, later, confirmation of that change by the court under section *forty*. The complaints which we have received about the necessity for obtaining this confirmation do not seem to us well grounded. The provisions of section *forty*, requiring licences which have been transferred or removed between two sittings of the court to be regarded as new licences, are the logical consequence of the rest of the law. The general rule is that no licence shall be granted until the court is satisfied as to the suitability both of the premises and of the person. In exceptional cases a licence may, under sections *thirty-eight* or *thirty-nine*, be obtained for a person or for premises which the court has never approved, and it is reasonable that the next application for renewal should be regarded as what it really is—the first opportunity which the court has had to consider whether the licence is desirable in the altered circumstances. It would, however, be a distinct advantage to substitute a less complicated system, under which the court could decide each case at once and finally.

266. Another point gained would be that, if complaints could be dealt with once a month, there would be no necessity to hold general sittings for renewal oftener than once a year. The only object of shortening the period to six months is to enable a closer check to be kept on licensees, and this the monthly sittings would provide even more efficiently. Those applicants against whom no complaints are made—always a large majority—would thus be saved the trouble and expense of applying twice a year.

267. We think that this change would probably lead to more careful investigation of all licensing matters. The present system, under which complaints come up only twice or (in the case of licences granted for twelve months) only once a year, means, in the larger centres, an immense accumulation of business at one time, and that time, just before Christmas, a very inconvenient one. Also, the division of responsibility between the magistrate and two members who originally sanction transfers or removals, and the full court which ultimately confirms them, tends to encourage each to leave the matter to the other, especially as the present law allows the former to be approached individually and without any information such as is obtained by the full court from inspectors' reports. At a formal sitting matters are more thoroughly gone into. We also anticipate that the prospect of prompt action being taken on any complaint would make licensees more careful, besides being acceptable to them.

268. We do not think it should be permissible to every one to bring complaints before the monthly sittings; this would give an opportunity to prejudiced or malicious persons to harass licensees unreasonably. The power of taking objections at these sittings should be confined to the principal officer of police in the district, who should be required to give the licensee notice of the nature of the complaint at least five days before the sitting. Any member of

the public who has a serious complaint against any licensee will, of course, have no difficulty in getting the police to bring it forward for him.

269. With such frequent sittings it would be unnecessary to provide for temporary transfers or removals between the sittings. As to transfers, it is already possible for a licensee who, for any cause, has to leave at short notice, to appoint a manager for a month without any formality and for an unlimited time with the consent of the resident magistrate. In case of death or insolvency, provision is made by section *forty-two* for the carrying on of the business until the next meeting of the court. Removals can usually be anticipated. The only other cases likely to occur are those of absconding by the licensee and destruction of premises by natural agencies, and in these cases we think the resident magistrate might be authorized to sanction any arrangements for carrying on the business until he can call a meeting of the court. We may point out that, in Johannesburg, it has for years been the practice to deal with transfers, removal, etc., only once a month, at an informal meeting called for that purpose. No inconvenience appears to have been caused; in fact, the practice is approved by the trade as limiting the facilities for a licensee to sell his assets and abscond.

270. These proposals are mainly intended for the larger centres, where there is much licensing business. In many districts it would be unnecessary to hold sittings so often. In such places it should be left to the resident magistrate to call meetings of the court when business rendered it necessary, but not oftener than once a month.

271. We therefore recommend that

(1) the court should sit once, not twice, annually for general business;

(2) the president should have power to call additional meetings not oftener than once a month if there is any business to be done;

(3) at such additional meetings, transfers, removals, and recognitions of interest under section *fifty-nine* (2) should be dealt with. The court should also have power, upon the complaint of the principal police officer of the district, after due notice to the licensee, to cancel any licence;

(4) in case of the absconding of a licensee or the destruction of licensed premises by *vis major*, the resident magistrate should have the power to authorize any arrangements which he approves for carrying on the business until an additional meeting of the court can be called.

CHAPTER 7.—SUNDAYS AND ELECTION DAYS.

272. The present law lays down the principle that liquor is not to be sold on Sunday, Christmas Day, or Good Friday. Two exceptions are admitted: hotelkeepers may sell "to persons sleeping, boarding, or taking meals on the premises of the hotel", and restaurateurs "to persons taking meals in the restaurant . . . to be drunk at such meals". In each case the hours of sale may be prescribed by the licensing court: in hotels without limitation, in restaurants between 10 a.m. and 9 p.m.

273. It has been proposed that all places licensed for consumption on the premises shall be open during certain hours on Sundays, the principal argument in favour of this change being that, under the present law, a large trade is done at hotels and restaurants under cover of bogus meals. This is undoubtedly the case, especially in the larger towns.

274. Sunday closing of licensed premises is the uniform practice of South Africa, subject to exceptions similar to those prevailing in the Transvaal. The advocates of opening have quoted the precedent of England. Sunday closing is, however, the rule in Wales, Scotland, and Ireland, and we find, upon reference to the report of the Peel Commission, that the majority and minority agree that, in those countries, the system is a success. They further agree in recommending that the hours of Sunday opening in England should be shortened.

275. In view of the fact that all experience in South Africa and United Kingdom is in favour of Sunday closing, and in view also of the strong opinions

held on religious grounds and in the interests of quiet and order, by a large section of the population of the Transvaal, we recommend that the principle be maintained. We shall, however, have certain modifications of detail to suggest when we come to deal with hotel and restaurant licences.

276. Christmas Day and Good Friday are treated by the Cape Colony and the Orange River Colony, as well as by the Transvaal, as Sundays for this purpose. In Natal, contra. We recommend that the law remain unchanged in this respect.

277. The law also provides that retail liquor sellers shall not open on election days until the poll has been closed. We recommend that the law remain unchanged in this respect.

The Chairman dissents from this paragraph. (See Reservation No. 3.)

CHAPTER 8.—CLUBS.

278. The club licence is of such a peculiar character, and we have received so many suggestions regarding it, that we think it should be dealt with separately. Many of those suggestions proceed upon that mistaken assumption that a club is a public house. It is not; it is a private house. If three men choose—as many trios in the Transvaal do choose—to keep a household in common there is no reason why that household should be subject to special legislation differing from the legislation dealing with a household consisting of man and wife and a dozen children. Nor is this principle affected if the household consists of 3000 persons instead of three. This fact cannot be too strongly insisted upon, because it lies at the root of a proper understanding of clubs. The rights of the State over establishments which exist to supply public convenience, and which throw open their doors to all and sundry upon payment, are quite different from those which it has over establishments which exist solely for the convenience of their own members. In the conduct of the former the public are directly concerned, and they may legitimately interfere, through the State, to see that such places are properly conducted. In the conduct of the latter they have no more concern than in the management of their neighbour's household. They are concerned in the latter to a certain extent; they are entitled to see that their neighbour does not so conduct it as to be a nuisance to them: and they have a duty to interfere to prevent his maltreating such members of his family as cannot protect themselves. Further than this they are not concerned. If the purely internal arrangements satisfy the members of the household the outside public have no right to interfere upon the ground that those arrangements would not suit them; and this principle applies equally, whatever be the number of members of the household. To take the extreme case. If a man habitually gets drunk at his club that concerns the public no more and no less than if he habitually got drunk at home: if he gets drunk at a public bar the community has a much more immediate interest in restraining his vice. Of course his fellow-members of the club have—and, in the case of any decent club, will exercise—the right to abate the nuisance, but their action is a matter of domestic policy. No doubt the State has a right to restrain drunkards, even if they confine their habits to their own homes, but that right is in no way increased by the extension of the habit to their clubs.

279. As a matter of fact the hostility to clubs is largely due to mere trade jealousy, and this attitude should receive no attention. Licences are made for man, not man for licensees. If it is convenient to the public, or to any class of the public, to get their drink at clubs instead of at bars, it is monstrous that they should in the interests of the licensed victualler be prevented from doing so. The next step would be to prohibit a man from having a glass of beer at home in order that he might be driven to a bar to get it. The constant argument of the licensee is that he pays for a licence and should get value for his money. He has not, however, explained to us why, if he thinks that he is not getting value under the present law, he ever applied for, or still continues to retain, a licence.

280. As we have said, a club is a private house. The only condition, however, upon which it can claim this status is that it shall in fact be, as well as profess to be, a private house. A club of which the principal purpose is the sale of drink to someone's profit is not a private house; no private house is run on those lines. Nor is a club which any member of the public can obtain the use of at short notice by

complying with certain slight or fictitious formalities a private house; no household admits strangers upon such terms. But the fact that a member of a club can invite a stranger into it and entertain him, whether with an elaborate meal or with a glass of beer, does not destroy the private character of the institution; every one can do the same in his own house. On the other hand, if the stranger directly or indirectly bears the cost of the meal or the beer, that fact at once distinguishes a club where he is allowed to do so from a private house.

281. It follows from what we have said that the function of the State as regards clubs is simply to assure itself that they are private houses, and not public houses. Once assured of that, no special treatment is necessary or justifiable.

282. The natural way to determine this is by requiring any establishment which adjusts its internal expenditure by payments received for liquor to prove that it is a real club. This can be most easily arranged by calling upon it to satisfy the licensing court on the point.

283. As to the rules which should be laid down by the law for the guidance of the licensing court, we have various suggestions before us, some of which are taken from the laws of other Colonies. We propose to try them all by the same test:—Are they of a nature to show whether the institution is in essence public or private? Tried by this test, we approve the following suggestions, which we think should be incorporated in the law:—

(1) That a register of members be kept.
(2) That the club be managed by a committee elected by the members.
(3) That the committee should hold regular meetings and keep minutes.
(4) That no ordinary member be elected less than fourteen days after nomination, or without his name having been published on the club premises for at least seven days.
(5) That election be by all members or by the committee; provided that the rules of the club may disqualify any member in arrear with any payment due to the club.
(6) That the rules be filed with the licensing court, and that every change in them be duly notified.
(7) That proper accounts be kept.
(8) That none but members be allowed to pay for anything.

284. We reject the following suggestions as not conforming to the principle laid down above:—

(1) That the premises should be of a minimum value.
(2) That clubs on proclaimed ground should be prohibited.
(3) That the number of guests should be limited.
(4) That Sunday sales should be prohibited.

285. We are not prepared to require absolutely that the profit from the sale of liquor shall go to the club as a whole and not to any individual; many perfectly genuine clubs find it convenient to hand over the catering to a manager. No such arrangement should, however, be permissible except upon a written agreement which has received the sanction of the licensing court. The terms of such an agreement are material as indicating whether the club is a genuine association or merely a disguised public-house kept for the benefit of the nominal caterer.

286. We think a provision of a minimum annual subscription of £1 reasonable. Otherwise, expenses have to be met out of the profits on liquor, and this is a temptation to slackness in admitting members and in preventing sales to non-members.

287. The age of persons to be employed or served with liquor in a club may well be left to the general provision of the law affecting all licensees. The number of members, the objects of the club, and the nature of the premises are only indications as to the genuineness of the club, and may be left to the licensing court to consider in each case without laying down any hard and fast rule.

288. There is no doubt that the provisions of many club rules as to the admission of honorary members are abused. It often happens that upon such occasions as a school dinner many outsiders are made honorary members for the day *ad hoc*. In other words, they pay for their dinner as if they had gone to a

restaurant. It is true that only friends of members have this privilege, but such an arrangement would be impossible in a private house, and should not be allowed.

289. The admission of honorary and temporary members is the great crux of the club question. It means that persons acceptable—in some cases to the committee, in others to an individual member—become members of the household for a greater or less time and pay their own expenses. The power of extending to a reputable visitor the convenience of a club ought not to be forbidden, but it is open to abuse and should be jealously watched. Such abuse can best be checked by providing that no person residing within, say, ten miles of the club premises shall be admissible as an honorary member.

290. Supervision is necessary to the efficient carrying out of the provisions of any law. To that end all commissioned officers of police should be entitled to enter and inspect any club and to examine its books. No reputable club would object to this.

291. Applications for club licences should be subject to the same conditions as those for other licences. The suggestion that the particulars required should be verified by affidavit does not appeal to us. A licensing court can examine orally any witnesses whom it needs, and experience does not endorse the classic dictum that "truth will out, even in an affidavit".

292. No reason has been produced why clubs, more than other licensees, should pay duty on the basis of turnover.

PART VIII.—AMENDMENT OF STATUTES: DETAILS.

PART VIII.—AMENDMENT OF STATUTES: DETAILS.

293. With regard to detailed amendment, our first recommendation is that the Licensing Statutes be redrafted and codified. We make this recommendation in a general form, because to point out in detail the various inconsistencies and ambiguities which we have come across would embarrass this portion of the report with matters better left to draftsmen, and we have not to any serious extent discussed with the witnesses the effect of suggested verbal alterations. In this part we propose to deal only with suggestions which have been laid before us by the witnesses, and which have not been touched upon elsewhere in our report.

Ordinance No. 32 of 1902.

294. *Section* two (*a*) (2).—Some witnesses say that medicated forms of alcohol such as Wincarnis are being sold by chemists for the purpose of ordinary drinking. It is asserted that this habit is on the increase, but it is difficult to verify this, as the customs returns show no distinction between medicated and unmedicated wines. It is probable that the high prices at which most of these liquors are sold considerably restrict consumption. A suggestion has been made that medicines containing alcohol should only be sold on medical prescription. This would, however, be a serious interference with the legitimate use of such medicines.

295. *Section* two (*a*), (3) *and* (4).—Some objection has been taken to the sale of liquor at sheriff's sales in execution and by auctioneers, on the ground that no record is kept of such sales, so that the liquor cannot be traced, and it has been suggested that such sales should be to licensees only. This would, however, tend to restrict to an unreasonable extent the prices obtained, especially where, as is usually the case, the amount of liquor sold is small. Since no amount exceeding eleven bottles can be removed from such sale without a permit, it does not seem probable that any serious quantity of liquor gets into undesirable hands from this source.

296. The effect of sub-section (3) is a little doubtful. Probably the only intention was to legalize sales of liquor in execution of judgments, but the terms seem to authorize a magistrate, if he thinks fit, to allow the messenger to sell liquor under any circumstances. Cases occur in which this power has been found convenient, e.g. where an executor finds himself burdened with a cellar of wine for which the heirs have no use. Apart from this clause, there is no method by which he could turn this portion of the estate into money. It would, however, be desirable to give the power of authorizing such sales to the court of resident magistrate or to the licensing court at its interim sittings rather than as at present to the magistrate personally, so that there should be a certain amount of publicity and formality whenever such permission is granted. Under these conditions there appears to be no objection to the power.

297. *Section* three.—Difficulties sometimes arise as to whether the particular liquor in question is or is not kaffir beer, and similar difficulties have arisen in the case of skokiaan and khali, both of which have been proclaimed as intoxicating liquor under this section. The Government Analyst has had samples under these names which did not show 2 per cent. of alcohol. He suggested that no liquor should be proclaimed unless its constituents were so well known that it could be defined. This would put a considerable difficulty in the way of convictions, and it is generally possible to ascertain from native evidence whether the liquor in question in each case really is what it is called. After all, it would not be very easy to give a definition of wine or beer which could not be evaded, but most people can declare with certainty whether the contents of a particular glass should be called by the one name or the other. We do not think it necessary to make any alteration in this respect.

298. We adhere to the recommendation expressed in paragraph 6 of our interim report, that alcohol should be measured by the percentage of proof spirit.

299. *Section* seven.—At present no express provision is made as to what premises a licence may cover. In Johannesburg, licences are generally expressed to be in respect of a named stand. This has the effect that a licensee can, without reference to the licensing authority, alter the premises to such an extent that they may become quite unsuitable to be licensed. Of course, the licensing court may, at the next sitting, refuse the renewal of the licence on this ground, or may renew only on condition that the premises are restored to their former state. This is, however, an ineffective method of control, as it may not take effect for months after the alterations. It is also inconvenient to the licensee, as it is impossible for him to undertake any alteration of his premises without the risk of losing his licence or having to restore the former condition of affairs. By this the public also suffer, as improvements are made unduly risky. We recommend that plans of licensed premises specifying the use to which each portion is to be put should be deposited with the court, and that no extension or structural alteration should be undertaken without the sanction of the court to the new plans. There is no necessity to put existing licensees to the expense of having plans drawn at once: a provision that plans should be deposited whenever new premises are licensed or old ones altered would put the system into effect gradually and without hardship.

300. *Section* seven (1).—In this sub-section there is no provision for the sale of bottles containing less than a pint, for which there is a considerable demand under the name of "nips" or "pegs". There appears to be no objection to the sale of liquor in this form. The word "cask" does not cover sales in jars, and it is suggested that the word "bulk" should be substituted. A general phrase, such as "not less than two gallons", would avoid all such difficulties, but would raise a new one, since twelve bottles of some liquors, notably gin, though professing to contain two gallons, actually hold somewhat less. These difficulties will be swept away if our previous recommendation that a wholesale liquor licence should authorize sales in any quantity, but only to licensees, be adopted.

301. *Section* seven (2).—Further consideration has confirmed the view expressed in our interim report, that the hotel licence, held apart from a general retail licence, is not satisfactory. There seems to be an idea that persons who supply such public necessaries as food and lodging should be favoured by being given a cheaper licence. We are told on all hands that the supply of food and lodging is undertaken at a loss and that the business can only be carried on by reason of the large profits on the sale of drink. There is no very obvious reason why food and lodging should be supplied in hotels at a loss. We do not see any public advantage in subsidizing certain purveyors of food and lodging by providing them with a special opportunity to make a profit in a different branch of business. The effect is simply that every one who purchases liquor contributes some portion of the expense incurred in providing food and lodging for those customers who drink nothing. In other words, the drinkers pay for the teetotalers; and the latter are compelled, whether they like it or not, to obtain a financial advantage from the sale of liquor—a position to which the more extreme among them must object.

302. Wherever the holder of a hotel licence is not the proprietor of the building, the effect of the licence is to put up the rent enormously. Of course such advanced rents would not be obtained if the licensee were not willing to pay them. Apparently his willingness to do so arises, not from the legitimate cause that a hotel licence enables him to make a large profit, but from the general feeling that the obtaining of such a licence is a step towards the much more profitable general retail licence. In the hope of obtaining this and thus recouping himself, the licensee is prepared to pay, during a considerable period, a rent not justified by his actual business. This is obviously an artificial and unhealthy state of affairs.

303. The hotel licence seems to have been intended for the establishments known in Europe as "private hotels", which keep no bar and do not desire to attract custom from any source except their own residents. Such establishments are, however, unknown in the Transvaal.

304. The existing hotel licences have not been a success. There is constant complaint that they break the law by selling to persons to whom they are not authorized to sell, more especially on Sundays when all bars are closed. It is

scarcely possible to prevent this, owing to the impossibility of defining what is a meal. The holders of general retail licences also complain that hotels and restaurants are competing illegitimately for the bar trade, and as the latter pay a much reduced licence, this is certainly a grievance. The fact that hotels and restaurants, when run on legitimate lines, do not pay removes the strongest incentive to keep within the law—the fear of losing the licence—and the same fact shows that there is no public need for these licences in their present form.

305. Of course some provision must be made, as it is in all the other South African Colonies, for those persons who are dependent upon houses of public entertainment for the ordinary conveniences of life. Of these there are three classes, described in this sub-section as "persons sleeping, boarding, or taking meals on the premises of the hotel", in popular language they may be called lodgers, boarders, and travellers. Their needs are different, and they should be dealt with separately. As far as lodgers are concerned, there seems no necessity and no reason in limiting the hours at all. A man ought to have a considerable latitude in what is for the moment his own house. The only difficulty is to prevent the abuse of this privilege by bogus lodgers, i.e. persons who, with or without the connivance of the licensee, represent themselves as being lodgers for the purpose of obtaining liquor outside the ordinary hours in the same way as they now pretend to have a meal at the hotel in order to obtain drink on Sundays. But it is much easier to define a lodger than to define a meal. There is necessarily great doubt as to what a meal is, but there is no doubt at all as to whether or not a particular person has slept the previous night on the licensed premises, and this would be a very proper test of a lodger. It may be necessary to meet the case of late arrivals at night by including in the definition persons who have registered at the hotel and actually engaged a bed for the following night and either paid for the bed or deposited luggage.

306. This would bring the law of the Transvaal into harmony with that of the Cape Colony, where, as in England, lodgers may be served at any time. In Natal they may be served between 6 a.m. and 1 a.m. on any day. The Orange River Colony law allows such sales on Sundays only at meal hours. A necessary sequel to the exemption in favour of lodgers is a penalty for falsely pretending to be one. Such a penalty exists in Natal and at the Cape.

307. Boarders differ from lodgers in that, not sleeping at the hotel, they have necessarily a place where they can, as easily as householders, make their own provision for such liquor as they desire to take at odd times; they are dependent on the hotel only for something to drink with their meals. Natal and the Orange River Colony limit the supply on Sundays to defined meal times; the Cape allows it to persons taking a bona fide lunch or dinner at any hour. We think that the essential thing is that the liquor should only be supplied with a genuine meal, and that the hour is a secondary consideration, and we recommend the adoption of the Cape principle. This has the further advantage of providing at the same time for the necessities of travellers, who cannot always time their halts to suit the usual meal times.

308. The further distinction between the needs of a traveller and those of a boarder is that the former, having no home in the neighbourhood, is dependent upon the public-houses for such drinks as he wants between meals. It must be pointed out that any traveller staying the night in a hotel becomes a "lodger", so that this part of the question affects only the passer-by who comes in for a drink and nothing more; and it affects him only on Sundays, since the general retail licence provides for his wants on other days. If these requirements are to be met it becomes necessary to frame a definition of "traveller", which is far from easy. The natural test—the distance travelled—is open to many objections. It is extremely difficult to fix a distance which can be considered reasonable in view of the different ways in which travelling is conducted. The three miles which is the established distance in England may be reasonable from the point of view of the pedestrian, though even in his case it points to a rather unusual degree of thirst; for passengers in a motor car it is obviously absurd. Another objection is that the licensee must necessarily be largely dependent on the would-be customer's word as to the distance which he has come. English experience has shown that in fact the exemption is greatly abused. Country villages just outside the prescribed radius from great cities become resorts for Sunday drinking by the population of

the latter, to the great inconvenience of the local inhabitants. We think that it is not worth while encountering all these difficulties in order to provide travellers on Sundays with the opportunity of getting drinks at public-houses between meals, and we recommend that such travellers should have no special privileges.

309. We are unable to get over the inherent difficulty, to which we alluded in our interim report, of defining a meal. We think, however, that it will be minimized by adopting the Cape phrase, "bona fide lunch or dinner"; no one needs liquor with breakfast. We may call attention to the test of such a meal laid down by the Supreme Court of the Cape Colony in Rex *v.* Sutton (10 S.C. 273), "whether the food was ordered and supplied merely as an excuse for the supply of liquor or with the bona fide object of being taken as a fairly substantial meal with the liquor as a mere accessory". We recommend that a definition to this effect be incorporated in the Act.

310. These modifications would enable the holder of a hotel licence to meet all the reasonable needs of the public, provided he also holds a general retail licence, which, for the reasons given above, we think he always should do in towns. We recommend that, in future, no new hotel licence be granted within a town save in conjunction with a general retail licence. We do not mean that all existing holders of hotel licences should be entitled to claim a general retail licence, nor that they should be swept out of existence. We would leave it to the licensing courts to decide in each case whether they will (subject to the restrictions on the total number of retail licences) grant to the holder of the hotel licence a general retail or leave the hotel licence to die out.

The Chairman and Mr. Munnik dissent from paragraphs Nos. 311, 312, 313, and 314. (See Reservation No. 4.)

311. We have been informed that travellers are unable to get liquor at roadside inns unless with their meals, and that this is a hardship on the public. It is, however, admitted that much illicit liquor selling is going on, which the police cannot stop, and practically wink at so long as the house does not actually become a nuisance.

The fact that the police do so wink at what undoubtedly goes on shows that the law as it at present stands is unsatisfactory both as regards its provisions and administration.

There are only three alternatives:—

(1) To grant the hotel in the country the same rights as those proposed to be given to hotels in the towns.

(2) To prevent the selling of liquor in country hotels altogether.

(3) To leave matters as they are.

312. We do not favour the first course, as we are convinced that it would only bring about a repetition of the conditions of affairs as they existed in the Orange Free State prior to the passing of their Act, 1883. The evidence led in this respect is conclusive in our opinion, namely, that our country population would seriously suffer by the introduction of a system under which the indiscriminate sale of liquor could be carried on generally by a storekeeper who, as a rule, also keeps the hotel.

313. We do not favour the second course, because it would be an interference with the already small comforts of travellers in the country. Besides, there would, in our opinion, be no justification for enforcing total abstinence in the country districts when no such restriction is imposed on the towns.

314. Though we cannot in any way approve of the present law not being strictly administered, we think it better to continue its provisions in respect of the country hotel than to adopt either of the suggestions made under Nos. 1 and 2 of section *three hundred and eleven*.

The evidence generally goes to show that the country hotel is a necessity to travellers, that the police keep a fairly close eye on them, and that if any one of them at any time becomes a nuisance or breaks the law it can be dealt with satisfactorily under the existing law.

Though not perfect in every respect, chiefly on account of the difficulty of police supervision, we recommend that the present law as regards country hotels be maintained.

315. It has been suggested that the sale of liquor in hotel bedrooms should be prohibited; this on the ground that men sometimes come into town, take a

bedroom in a hotel, and stay there in a state of drunkenness for as long as their money lasts, simply handing the landlord a cheque for all the money earned by them, and drinking until the amount is exhausted. Such a practice is, however, already illegal by reason of the prohibition of permitting drunkenness on the premises, contained in section *fifty-six* (1), and that of receiving payment in advance, contained in section *eighty-three* (3). Of course it is difficult to get evidence sufficient to convict in the circumstances suggested, but this difficulty would be in no way removed by the proposed additional prohibition. The latter would also interfere with legitimate sales. Most people do not take private sitting-rooms at hotels, and have no place except their bedroom where they can entertain a friend in private. Also, the prohibition would work harshly in case of sickness.

316. *Section* seven (3).—The considerations put forward with respect to hotel licences largely apply to restaurant licences also, and our recommendations are, *mutatis mutandis*, the same.

317. *Section* seven (5).—We adhere to the recommendations contained in paragraph 11 of our interim report, that the hours of bottle storekeepers should be assimilated to those of butchers, as laid down by the Shop Hours Act, 1908. The complaints which we have received as to inconvenience caused, especially in the country, by the restriction of the amount to be sold under a bottle licence will be met by the recommendations set out in Part VII as to the true distinction between wholesale and retail licences. See paragraphs Nos. 215-217.

318. The small bottles referred to as "tot" bottles are the creation of the Railway Catering Department for the purpose of checking their employees, while the "Cape wine nip" owes its existence to the wine farmer to further his aim of enlarging his market. It has been argued before us that these small bottles are practically "tots" sold by the bottle storekeeper for consumption "off", whilst his licence is intended to confine him to the sale of larger quantities as contained in quarts and pints, that he therefore poaches on the preserve of the general retailer, who pays a much heavier licence, but, above all, encourages the habit of drinking in women who would not enter bars, yet who would have no hesitation to send for these small bottles of spirits. We think these arguments to be weighty, and therefore recommend that the minimum quantity which may be sold under a bottle store licence be a pint. The Chairman and Mr. Munnik dissent from this. (See Reservation No. 5.)

319. Complaint has been made that bottle stores send out wagons loaded with liquor, preceded by a bicyclist to take orders, which orders are executed on the arrival of the wagon. If such a practice exists (as to which we have no convincing evidence) it is illegal. Under section *fourteen* of Ordinance No. 8 of 1906, a wagon-load of liquor requires a permit setting out the name and address of the person or persons to whom it is to be delivered. It is alleged that these wagons are provided with false permits, giving imaginary names and addresses, but we have found no evidence of this.

320. It has been suggested that the holder of a bottle licence should only be allowed to sell in his own immediate neighbourhood, upon the ingenious ground that, as there is only one licence to every 200 voters, each licensee should be restrained from interfering with another licensee's 200 voters. We do not think that this argument need be taken seriously.

321. There has been a considerable demand for the right to sell bottles and jugs under a general retail licence. Several grounds are put forward in support of this demand. The first point raised is that, since bottle stores close earlier than bars, it is an inconvenience to any one who has to return home late to have to carry a bottle about with him the whole evening. The example given to us is that of a miner who has come into town to a theatre and wishes to take a bottle back with him. It seems to us that this inconvenience is very trifling when compared with the danger of allowing sales by the bottle after dark. Such sales would greatly facilitate the operations of illicit dealers.

322. It is also said that, if bars were allowed (as they are in England) to have a bottle and jug department, many workmen would arrange to have a moderate allowance of beer brought to their homes to drink with their dinner, whereas they now go to the bar for one glass and remain to drink several. We do not find sufficient evidence to show that there is any general desire on the part of workmen for this change; the evidence in its favour comes almost entirely from licensed victuallers.

323. A further argument used in favour of allowing bars to sell liquor for consumption off the premises is that they are open later than bottle stores, and would therefore be available in case of sickness. It seems to us that it is no part of the functions of a bar to supply medicine; that is the business of a chemist. Also, the bar is only available for a few hours more than the bottle store, while the chemist may, under section *seven* of the Shop Hours Act, 1908, supply medical requirements at any hour of the day. It is stated that chemists do not keep alcohol in its potable forms. If this is so, it is strong evidence that the occasions on which these forms of alcohol are urgently required for medical purposes are not sufficiently frequent to require special provision to be made for them.

324. We may discard the argument that the general retail licence, because it costs more than the bottle licence, should therefore include all the privileges of the latter; each licence has its separate sphere. It has also been stated that the cost of beer to a customer would be less if obtained in bulk from a bar than if obtained in bottle from a store, but the figures quoted to us do not bear this out.

325. We think it undesirable to make it easy for a man who has been drinking at a bar to take away a bottle with him at closing time. If he had, when in his sober senses, wanted one, he might have bought it earlier; if not, he is better without it. Also, the large number of bars in existence renders impossible the supervision which is at present exercised over bottle stores.

326. In the Orange River Colony the law on this point is the same as that of the Transvaal. In Natal, the general retail licence allows of sales for consumption "off". In the Cape Colony the matter is left to the licensing court. We think the Transvaal system decidedly the best, and recommend that no change be made in this respect.

327. On behalf of the holders of hotel licences, it has been said that inconvenience is caused to the public by their inability to sell a bottle for consumption off the premises to a visitor who wishes to take out a picnic basket, or to a traveller who has before him a long journey along a road where there are no inns. While agreeing that sales of this character are, in themselves, harmless, we do not think the inconvenience caused is sufficient to justify a departure from the principle that "on" and "off" sales should not be conducted on the same premises.

328. One general retail licensee complained that the restriction to sales for consumption on the premises prevented his serving drink to people stopping at the door on horseback or in a cart. Cases in which there is any valid reason why a customer should not dismount and enter the bar must be extremely few.

329. Where the same person holds a general retail licence and a bottle licence, there is nothing in the present law to prevent his selling bottles for consumption "off" over the bar, and this is done in some towns. There are serious objections to this practice. The spirit of the law is certainly opposed to sales for consumption "on" and "off" under the same conditions, and the bar is open long after bottle stores are closed, so that there is no possibility of securing that bottles shall not be sold after bottle store hours. It is obvious that the licensee must sometimes be greatly pressed to contravene the law. We recommend that bar and bottle store businesses on the same premises be prohibited.

330. It has been argued that, in special localities, such as those near an early morning market, 8 a.m. is not an early enough hour for the public convenience. It would certainly not be worth while to open all bars earlier in order to meet such cases, and, after the failure of the system of midnight privileges, we are not inclined to institute a similar system for earlier privileges. Probably there would not be so much pressure on the licensing court to grant earlier privileges as to grant midnight privileges; in most places it would be unprofitable to open before 8 a.m. On the other hand, it is universally agreed that alcoholic stimulants in the early morning are medically undesirable. We do not recommend any change.

331. *Section seven (8) as amended by Ordinance 8 of 1906, section six.*— Ordinance 8 of 1906, section *six (g)*, provides that railway station licences shall only authorize the sale of liquor to "persons lawfully using the station premises

for railway purposes, or to persons taking meals at refreshment rooms during such meals". We think that the latter portion of the sub-section should be entirely deleted; there is no reason why the Government should, in competition with the local publican, run a restaurant for persons not using the railway. Nor is the earlier portion of the sub-section satisfactory; "persons lawfully using the station premises for railway purposes" is vague. The simple word "passengers" covers the whole class for whose convenience these licences exist. If the railways cannot make a refreshment room pay upon these lines it ought to be closed down as unnecessary. Railway employees, when sufficiently numerous, can form a club; when not sufficiently numerous they can use the local hotel like every one else. We recommend that the whole passage quoted above be deleted and the word "passengers" substituted.

332. *Section* seven (9).—With regard to the theatre licence, the only complaint brought forward has been that the language used is not wide enough to cover the case of a public hall, which has different amusements from time to time, some of which, such as dances, are not of a theatrical nature. There is, however, a considerable difference between such a hall and an ordinary theatre. The theatre is for long periods together under the same management, who have presumably satisfied the licensing authority that they can be trusted to control the sale of liquor. The public hall is let to all sorts of people in turn, and it seems desirable that each of them should be required to satisfy some one that they ought to be allowed to sell liquor. This is at present provided for by the system of temporary licences.

333. *Section* seven (10).—The principal charge levelled against temporary licences is that they afford an opportunity for licensed dealers to get up entertainments nominally for public recreation but really for their own profit. No doubt this may easily become an abuse, but it is one against which it is extremely difficult to provide by law. It is really a matter of administration. If such abuses are apparent, it is for the magistrate to refuse licences to persons who so abuse them. He has, as he ought to have, an absolute discretion in the matter; with such a discretion he ought to be able to prevent abuse.

334. It has been suggested that the grant of a temporary licence should be confined to public halls. This proposal is aimed at the above-mentioned practice of licensees to get up entertainments on their own premises. The limitation would, however, seriously interfere with legitimate public requirements. Many members of the public, whose own houses are not large enough for entertaining purposes, hire a room in a hotel on such occasions as a dance, and many associations find it convenient to do the same.

335. A complaint has come from the trade that holders of general retail licences, who alone can obtain a temporary licence, frequently lend their names to an unlicensed caterer, i.e. the licensee merely gets a lump sum and the caterer obtains the profits, and is thus the real vendor of the liquor. In such a case the borrower is undoubtedly selling liquor without a licence, and is liable to penalties, but the purpose of the law is attained, the general retail licensee whose name is used, being responsible for the proper conduct of the sale of the liquor, will, for his own sake, take care that it is properly supervised.

336. Another proposal is that there should be a limit to the number of temporary licences granted to the same licensee within a definite period. At present certain licensees specialize in this class of business. The effect of limiting the number of temporary licences they may obtain would be that, as soon as this number has been exhausted the specialist would be unable to supply any further demand, and the public would be driven to apply to another and probably less competent licensee.

337. **Section* eleven.—We recommend that a clause be added to this section, requiring every member of a licensing court, before sitting or acting, to sign a

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**Section* 11 *of Ordinance* 32 *of* 1902.

The following persons shall be disqualified for appointment, and, if appointed, shall, not continue as members of a licensing court, that is to say :—

(1) The holder of any licence for the sale of intoxicating liquor :

(2) any brewer or distiller ;

(3) any person interested or concerned in any partnership or company with any holder of such licence as aforesaid, or with any brewer or distiller ;

(4) any paid officer or paid agent of any co-partnership or society interested in the sale or the prevention of the sale of intoxicating liquor ;

(5) any person employed, directly or indirectly, as an agent for the purpose of making application for a licence for any other person, or any partner of any person so employed as an agent ;

declaration that he is not disqualified under any of the terms of this section, and that he is not opposed in principle to the sale of liquor. As disqualifying circumstances may arise at any time, we think this declaration should be repeated before each annual sitting.

338. The last clause of the section should make it clear that proprietary members of clubs are not disqualified. It has been so held in a court of resident magistrate, but the point is not free from doubt.

339. *Section* twelve.—The principal meeting of the licensing court is held in December and is sometimes not completed until January. It is obviously undesirable that any change of *personnel* should occur during the meeting. We recommend that members should hold office until 31st December, or until the December meeting is concluded, whichever shall be the later.

340. *Section* nineteen.—We adhere to the recommendations contained in paragraphs 13-15 of our interim report.

341. *Section* twenty.—No provision is made for compelling the attendance of witnesses before a licensing court. We recommend that such courts be given the powers of the Commissions Powers Ordinance, 1902. (See Annexure No. 8.)

342. *Section* 22.—The allowance of an additional ten days for late applications is inconveniently long, as it leaves insufficient time for the late entries to be published for the period required by section *twenty-three* (3). There is no very obvious reason why an additional period should be allowed at all; if it is allowed, five days are quite enough.

343. In every case of an application for a removal or a new licence, a notice should, for the information of the neighbours, be posted on the premises in respect of which the application is made. This is already provided (by section *thirty-nine*) in every case of a temporary removal from one set of premises to another.

344. *Section* twenty-three (4).—We recommend that, in respect of applications for new licences, the amount of the fee be materially increased. Most of the Colony is already over-licensed, and it is not desirable to encourage new applications, yet the same applications come up and are refused at sitting after sitting. At the Johannesburg sittings of 1909, there were many applications, the grant whereof would have been notoriously illegal. New applications are, in the great majority of cases, simply a speculation on the off chance of a valuable prize, and we think they should contribute substantially to the revenue. In the few cases where the new licence is really wanted, the additional charge will be trifling compared with the value of the licence obtained.

345. *Section* twenty-five.—Under the present law the court may, in its discretion, and at the request of the applicant concerned, summon any person objecting to the renewal of a licence for the purpose of his being examined as to the nature of the objection. It is proposed that, instead of leaving this to the discretion of the court, the objector shall be required to appear as a matter of course; this on the ground that it is a hardship to the licensee to be required to prepare a defence to a complaint which the objector does not give himself the trouble to support. We see no objection to this in principle; sending in an objection is, in effect, giving notice of intention to appear and oppose. In practice, however, we doubt whether all objectors would be aware of the necessity of attending if it were laid down by law, whereas, as present, each gets express notice to appear and cannot plead ignorance. What is required is some means of enforcing the summons to appear; no such means is provided by the present law. We recommend that this oversight be cured.

346. *Section* twenty-six (1).—It should be plainly laid down that the notice of objection sent to the secretary and to the licensee must state the grounds of the objection.

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(6) any person being the agent or manager of, or a partner in, any trade or calling carried on upon any premises licensed, or about to be licensed, or the owner or lessor of or the holder of any mortgage bond upon such premises;

(7) an unrehabilitated insolvent;

(8) any person who, in this Colony or elsewhere, has had a sentence of imprisonment without the option of a fine imposed upon him for the commission of some crime or offence not of a political character, and has not received a full pardon thereafter.

Any person so disqualified acting or sitting as a member of a licensing court shall be liable to a penalty not exceeding five hundred pounds, and in default of payment to imprisonment, with or without hard labour, for a period not exceeding three years.

The fact that a person is a member of a club holding a club liquor licence shall not in itself disqualify him from being a member of a licensing court.

347. *Section* twenty-six (2).—The unqualified requirement of this section that applicants for new licences or renewals should be present is unnecessary. At every sitting the great majority of existing licences are renewed without question. Even in the case of a new licence, the applicant may have good reason, such as sickness, for non-appearance. We recommend that the magistrate be authorized, in his discretion, to dispense with the appearance of any applicant, such dispensasion to be in writing.

348. Another point in this section which has attracted comment is the fact that applicants may only appear either in person or by qualified legal practitioners, while objectors may appear by any person, qualified or unqualified, whom they depute. There is some foundation for this distinction, since the applicant comes for his own personal advantage, while the objector is, in most cases, performing what he considers a public duty. There are serious objections to extending to unqualified persons the right of practice before any public body. If such persons are amateurs they are apt from lack of experience to waste a good deal of time and fail to do justice to their client's case. If they do the work regularly enough to acquire the necessary experience, they simply develop into a class of unqualified legal practitioners subject to no control: and the existence of such a class is universally admitted to be undesirable. The ground of the suggestion is simply that it will save expense to licensees, but it is a matter of common experience that cheap law, like cheap medicine, is apt to prove in the end a very expensive form of economy. It has been urged that unqualified agents would only be used in very minor matters, and that, in serious cases, the applicant would for his own sake obtain competent legal advice. The seriousness of a matter does not, however, always appear until it has been inquired into, and the applicant can hardly change his representative at that stage. It is to be observed that there is no necessity for an applicant to be legally represented at the first hearing; he can always get a postponement, under section *twenty-eight* (2), if the objection is taken, as the great majority of objections are taken, by the court itself, and in practice the court is very unlikely to refuse a postponement even if the objection comes from outside and the licensee has had due notice of it.

349. *Section* twenty-seven.—In Part VII we have dealt at length with the question of the degree of security which licensees should have. It has been suggested that a fund should be raised from licensees themselves out of which compensation should be paid for the loss of any licence without fault on the part of the licensee. If the trade, as a whole, approved this suggestion, they could put it into force voluntarily, and if any individual licensee desires the same security, he can insure. There is no necessity for the State to do what the interested parties could do for themselves. In England it has been so long considered that renewals were in the nature of a right that it was perhaps incumbent on the State, when that idea was definitely discarded, to make some provision for the licensees affected by the change. In the Transvaal there has never been anything in the law which could give colour to this theory.

See paragraphs Nos. 246–251.

350. *Section* thirty (1).—It has been urged that the perpetual disqualification of a licensee from holding another licence is too severe a penalty for the forfeiture of a licence, since it excludes him from the special trade by which he has been accustomed to make a living. It is, however, doubtful how far the licensed victualler is, in the Transvaal, a specially trained person; many instances have occurred of persons treating the business simply as an alternative for other businesses. It must be remembered that the purpose of these prohibitions is not to penalize offenders—that is done elsewhere—but to prevent licences falling into unfit hands; and it may be reasonably considered that a person once adjudged unfit to hold a licence is not a proper person to be again selected for this privilege. This, however, only applies to cases where the licence has been forfeited by an order of a court of law. It should be made clear that mere refusal to renew a licence, which may be due to no fault of the licensee, does not disqualify.

351. *Section* thirty (2).—The trade has asked that this sub-section should be modified by requiring notice to be given and a period allowed during which the premises can be repaired or cleaned. We think that this would defeat the object of the sub-section, as the licensee would feel under no obligation to attend to cleanliness until he had received notice to do so.

352. *Section* thirty (4).—Complaint has been made as to the vagueness of the word "vicinity". We think a certain amount of vagueness is necessary. Whether a bar is a nuisance to a neighbouring church depends upon many circumstances other than the absolute number of yards separating the two.

353. *Section* thirty (5).—Similarly the phrase "in an improper manner" has been criticized for vagueness, but we think the same considerations apply. It is also said that whether a licensed house is or is not required should be left to the public, not to the licensing court, to judge; and that, if the case be really so, the public will soon demonstrate the fact by leaving the house without customers. This reasoning, however, ignores the fact that bars undoubtedly create as well as supply a demand.

354. *Section* thirty-one (2).—We have received representations from traders outside this Colony that no provision is made for them to sell here through their travellers. The local houses reply that such agents are of no use to the Colony, and should be excluded from competition with the resident traders. It is admitted, however, that there is nothing in the circumstances of the liquor trade to entitle it to more protection than is extended to any other business. We recommend that provision be made by which the bona fide agent of a foreign firm may obtain from the head of the Excise Department a licence to sell to licensees only without being required to reside in the Colony.

355. It has been suggested that a new sub-section should be added prohibiting the grant of a licence to a general dealer on the ground that such licences offer temptations to persons, especially women, who come to the shop without any intention of drinking. It is, however, already provided that no retail licensee shall carry on any business other than the sale of food, drink, and tobacco upon the licensed premises (section *fifty-five*). We think this a sufficient restriction. So long as the businesses are carried on upon different premises we see no harm in their belonging to the same person.

356. *Section* thirty-two.—The recommendations made in our interim report on the subject of this section have been put into effect by Act No. 33 of 1909. Those recommendations, however, were made upon the basis that no licences for the sale of liquor to non-Europeans existed. If licences are to be granted for the sale of wine, etc., to coloured persons we think their number also should be limited in proportion to the population to be served. As there are no coloured voters in the Transvaal the system now in force cannot be applied to them. The next census, however, can easily be arranged to show the numbers of coloured and Asiatic males over twenty-one years of age, and we recommend that the number of licences be limited in the proportion of one licence to every 250 of these. As in the case of the European population, the Colonial Secretary's notification of the numbers of each census should be conclusive; and, pending the taking of the census of 1914, we think that such a notification, based upon any estimates available, should be issued.

357. *Section* thirty-four (1).—This sub-section requires bars and bottle stores to be accessible to customers only by doors opening directly on the street. An exception is admitted in the case of hotels, which are allowed to have an interior bar. This exception has been objected to as giving an undue advantage to hotels, but it is reasonable that the residents at a hotel should have a certain amount of privacy allowed them.

358. "Apartment intended for the sale of liquor" is not a very happy phrase. Presumably the public bar—or in the case of a bottle store the shop—was intended, and it would be better to say so. An interior bar, such as is sanctioned in hotels, must necessarily be entered by something of the nature of a back or side door.

359. It has been proposed to prohibit more than one entrance from the street to the bar, but we see no advantage in this.

360. *Section* thirty-four (2).—The prohibition of screens has been objected to as absurd in such a dusty place as the Transvaal. We do not, however, understand that it is intended to provide that there shall be a view of the bar from the street outside, but only that a person, having once entered the bar, shall be able to see the whole of the room from the entrance; in other words, that the bar shall not be divided up into compartments unless there is a street door to each. This we think sound, though the wording might be improved.

361. *Section* thirty-five.—It is urged that there is a need for bottle stores outside villages. It is evident that there would not be sufficient trade to maintain a bottle store alone, therefore this resolves itself into a proposal to allow general retail licensees to sell by the bottle. We have given our reasons for thinking this undesirable in paragraphs 321-329.

362. With regard to the distance between hotels, we have heard various proposals for amendment. The minimum distance now required is twelve miles; the proposals vary from five to twenty-four. This is natural, seeing the different methods of travel employed. Oxen go about eight miles between outspans; donkeys about six; mounted men, carts, and mules about fifteen; bicycles, which are increasingly used in the country, twenty to thirty; and motors anything you please. Probably the existing twelve miles is as reasonable a compromise as can be got.

363. The section would, however, be improved by inserting "on the same road" after "other licensed hotel". From Potchefstroom the roads leading to Johannesburg and Heidelberg respectively run for some distance very nearly parallel. There is an inn rather more than twelve miles from Potchefstroom on each of these roads, but as the two inns are within twelve miles from each other only one of them may be licensed. Yet the inn on the Johannesburg road is of no use at all to travellers on the Heidelberg road, and vice versa.

364. *Section* thirty-eight.—It has been objected to this section that it gives too much facility for a licensee to dispose of his assets and leave the country without notice to his creditors. This will be checked by the greater publicity consequent upon transfers only being obtainable at the monthly sittings which we have recommended. Even then, however, the same evil will exist, though in a modified degree. We see no reason why liquor businesses should not be brought within the provisions of the Registration of Businesses Act, 1909.

365. Under the present law no provision is made for carrying on the business of an absconding licensee. It has been suggested that in such a case the landlord of the premises should be entitled to apply for a renewal. This raises the whole question whether the licence should be purely personal or whether the premises should in any way be recognized. The former is the root idea of the existing law, but it is open to the grave objection that it ignores obvious facts. It is absurd to pretend that a licence was granted to the Carlton Hotel in Johannesburg, for example, because the court reposed especial trust in the manager for the time being, in whose name the licence stands. It was granted because the court thought such a hotel to be a great public convenience, and reasonably anticipated that the proprietors of a place in which so much capital had been invested would take care that it was so conducted as not to imperil such an enormously valuable asset as the licence. In other words, it was the merits of the premises almost entirely, and those of the licensee hardly at all, which caused the grant of this particular licence; and the same applies in a lesser degree to other licences. The situation and nature of the premises must in every case be a consideration of weight in deciding whether the public convenience does or does not require a retail licence to be granted or renewed. In fact, from the point of view of public convenience (which is the foundation of all systems of licensing) the premises are often a more important factor than the person.

366. A licensing court in granting a licence expresses the opinion that a licence of that nature, situate in or about that position, is necessary. The fact that the court is subsequently shown to have been mistaken in the character of the applicant does not do away with that necessity, and some provision ought to be made for immediately supplying the place left vacant by the absconding tenant. That place can presumably best be supplied upon the premises which the court originally selected for that purpose, and the only person who has control of those premises is the owner or some person approved by him. We therefore think that in such circumstances there should be an opportunity for a temporary transfer to be obtained by any person who has the written consent of the owner. "Owner" of course means the person who has the present right of occupation. If the absconder had a lease, his trustee in insolvency would have that right.

367. Various suggestions have been made that new licences should not be transferable for a definite period after the original grant of the licence. This is impracticable—a licensee may be sick or may have to leave for other causes.

Nor is it desirable; as we have said, the licence must be wanted or it would not have been granted. That it should be carried on is a public necessity; by whom it is carried on, so long as he is law-abiding and efficient, the public do not care. It is said that such a provision would check speculative applications only made with a view to selling the licence. We see no harm in such applications. The first thing that a licensing court has to decide is whether a licence is needed, if it is, the question to whom it goes in the first instance and whether he keeps it or sells it is a secondary matter, so long as no one not approved by the court can get hold of it. All interference with the ordinary course of business is prima facie bad, and can only be justified by necessity, and there is no necessity to prevent the transfer of a licence from one respectable man to another.

368. *Section* thirty-nine.—The requirement of thirty days' notice previous to removal may work hardship to the licensee in case of the destruction of premises by fire, etc. It is, of course, necessary to safeguard the neighbours of the new premises, but we think the magistrate might have discretion to reduce the period of notice, upon such conditions as he thinks fit, in case of violent destruction only. The present limitation of a temporary removal to a maximum distance of one mile will, of course, disappear when all removals are sanctioned by the licensing court in the first instance.

369. The suggestion that the licensee should have the right to remove to any suitable premises in a neighbourhood not yet sufficiently catered for amounts, in practice, to the existing law. Obviously, the licensing court must be the judge whether the premises are suitable and the neighbourhood sufficiently supplied.

370. *Section* forty-two.—Some courts have treated insolvency on the part of the licensee as a ground for refusing the renewal of the licence, arguing that such insolvency is prima facie evidence that the premises do too little trade to be necessary. Against this it is said that there may be other causes for insolvency. It is also objected that this attitude on the part of the licensing court puts the licensee into a position to blackmail his creditors and landlord by threatening to go insolvent and thus destroy the principal asset in his estate. If it were made a general rule that insolvency forfeited the licence, the result would probably be that credit would no longer be given, as it is given now, on the faith of the licence. It is by no means certain that this would be a bad thing, but the insolvency of the licensee may be quite compatible with the necessity for a licence in the neighbourhood, in which case the public would be inconvenienced by its loss. On the whole, it is not safe to provide that insolvency shall *ipso facto* destroy a licence. But licensing courts should look into the cause of insolvency and consider whether it does not indicate that the licence is superfluous, in which case it should not be renewed.

371. The period of six months given to the trustee is said not to be long enough. A trustee should not hold a licence indefinitely, but he might have a year.

372. *Section* forty-five.—It has been urged that this penalty is too high, but apparently this was under the mistaken view that the court trying the offence was bound to inflict the full penalty. The penalty is, of course, a maximum; this should be made clear by the use of the words "not exceeding".

373. A suggestion to substitute "conspicuous letters" for "letters two inches at least in length" we reject. Where possible, laws should be exact; it would be the reverse of an improvement to substitute an ambiguous phrase needing interpretation for words whose exact meaning every one knows.

Sir Willem van Hulsteyn and Mr. R. K. Loveday dissent from Nos. 374–378. (See Reservation No. 6.)

374. *Section* forty-six.—Many witnesses advocate abolishing the minimum penalty for the offence of selling liquor to prohibited persons; very few wish to retain it. With the exception of murder, there is no other crime for which a minimum penalty is provided by the law of this Colony, and, such a provision being altogether exceptional, it lies upon those who support such legislation to show that it is necessary. The original reason for this provision was that the illicit trade was run by rings, and was so profitable that no fines acted as a deterrent, and it was thought that imprisonment would do so. From this point of view the provision failed; it did not break up the rings. The rings, however, have been largely broken up by the Permit Law (Ordinance No. 8 of 1906). It is no longer easy to carry on the trade on a big scale, as the necessary quantity of liquor cannot be moved without the knowledge of the authorities. As a consequence, the individual illicit trader is unable to handle such large sums of

money as he formerly did, so that the original reason for the law no longer exists.

375. The principal argument for the maintenance of the minimum penalty is the increasing frequency of the crime. That convictions have enormously increased in the last five years is perfectly clear, as will appear from an examination of Annexure No. 9. It is noteworthy, however, that the increase is no longer continuing. In the last year (1908-09) there was a decrease of more than 20 per cent. on the previous year. At the same time there was an increase of more than 10 per cent. in the aggregate of convictions. At the present time, therefore, convictions for liquor selling are a markedly smaller portion of the total convictions than they were a year ago. In these circumstances, there is a stronger reason to lay down a minimum sentence for other crimes than for liquor selling, even if we assume that the frequency of the crime is accurately indicated by the number of convictions. Such an assumption is not, however, one that can safely be made; increased or decreased police efficiency is a factor which must be allowed for and which cannot be accurately estimated.

376. There is no reason to suppose that magistrates, if they are entrusted with the discretion as to the sentence for this crime, which they have as regards every other crime within their jurisdiction, will be unduly lenient. Most of these cases occur on the Rand, and it is impossible for a magistrate to be on the Rand for any time without becoming well aware of the enormous mischief done by the illicit trade.

377. We wish it to be clearly understood that we do not consider the existing penalties to be at all too heavy as a general rule. Nor do we lay any stress upon the argument so often raised that the penalty is excessive in the case of a first conviction. Convictions are principally obtained by means of trapping. The police are instructed never to prosecute unless they have succeeded in trapping the offender twice, and even if they do not carry out these instructions (which we have no reason to suppose) it is evident that they would not attempt to trap any one unless they had reason to believe that he was engaged in the traffic. It is almost inconceivable that the police should happen, by pure accident, to be able to get evidence of a first offence. A first offence rarely results in a conviction, and we entertain no doubt that the overwhelming majority of the persons convicted are carrying on the trade as regularly as if it were a legitimate occupation.

378. The one argument that influences us is that the degree of guilt and the extenuating circumstances vary in this crime as much as in others, and we see no sufficient reason why it should be treated in this exceptional manner. We recommend that the minimum sentence be abolished.

379. With reference to the exemption in favour of the supply of liquor for medicinal purposes or sacramental use, we think that in the latter case the responsibility of deciding the purpose for which the liquor is required might be removed from the licensee and placed on the magistrate. Sacramental wine is required at definite periods, and the applicant should be required to satisfy a magistrate and to obtain from him a certificate which the licensee should retain as his warrant for the sale. Besides relieving the licensee, this would provide a better check on the amount of wine supplied for this purpose. The magistrate would know how recently he had given a similar permit to the same applicant, while the licensee has no means of ascertaining how much wine may have been supplied to the applicant by other licensees. As to medicine, that may be wanted in a hurry, so that any one who will take the responsibility must be allowed to administer it; but a provision might be added that a prescription from the district surgeon stating the amount required should, if retained by the vendor of the liquor, hold him harmless.

380. *Section* forty-seven.—The penalty on the licensee has been objected to as too severe. As a matter of fact it is, as the law at present stands, of no effect whatever, since selling liquor to coloured persons entails imprisonment without the option of a fine, and therefore disqualifies under section *thirty-one* (1). If the law be changed so as to allow the option of a fine for this offence, this will no longer be the case. If the penalty was only for selling there would be much to be said for the view that an offence of this nature, however lightly punished, shows the offender to be a person unfit to be trusted with the control of large quantities

of liquor. But the fact that a person has once in a way given a drink to his native servant—as most people have done on occasions—is not convincing evidence of this. We think that this penalty should be eliminated and offenders left to the provisions of section *thirty-one* (1) and (8).

381. The penalty on the premises obviously exists as a part of the policy of the law to render as many persons as possible interested in preventing drink from being sold to natives. But it goes too far. The fact that a licensee has sold a drink to a native is not in every case sufficient ground for depriving the public of a licensed house which has been adjudged desirable, and for fining the person who has erected that house—and whose fault has been, at most, negligence and, usually, mere bad judgment in selecting his tenant—a sum which may amount to many thousands of pounds. It is unthinkable that any landlord is really going to connive at the unlawful sale of drink to natives; he risks too much. We are informed that premises used to be constructed expressly for the illicit trade, but no premises of this character would have a chance of obtaining a licence now. It should also be remembered that the licensing court will undoubtedly take a serious view of such an offence, and that it is always open to them, if they think the circumstances require it, to refuse the renewal of the licence at the next sitting.

382. *Section* forty-eight.—This section, read strictly, would appear to prevent the employment of coloured persons to deliver liquor to customers or consignees, since such coloured persons, while upon the road, are certainly in possession of the liquor in the carts they are driving. It has, however, been the constant practice to employ coloured persons for this purpose; the police have not interfered with it, nor do they find that any evil has resulted. Clearly, the employer must in his own interest maintain such a check upon the deliveries as to prohibit any opportunities of stealing the liquor so handled, in which case it is immaterial for our purposes whether it is handled by whites or by blacks.

383. Another practice which also seems to us a contravention of the section is for white employers to send their coloured servants to a bottle store with a note to fetch liquor. This also has not been interfered with in the past, but, unlike the matter dealt with in the last paragraph, it has had evil results. It has developed a distinct branch of the illicit trade in which the dealer, instead of himself supplying the native, writes the latter a chit—for which he charges 5s. or so—purporting to be from John Smith or William Jones, requesting a licensee to hand to his boy a bottle of brandy for John Smith's or William Jones' use. The effect of this is that the native pays for and drinks the liquor. There are also educated natives who commit similar forgeries, either for their own use or for sale. It is impossible for the licensee always to distinguish the genuine order from the counterfeit, and, in the opinion of the police, some licensees do not try to do so. In the Orange River Colony, where such messengers are specially exempted by the law from the operation of a section similar to our section *forty-eight*, we heard the same complaints that the exemption was abused.

384. We recommend that it be made clear that "possession" in this section includes possession as a messenger, but that a proviso be inserted exempting the coloured employees of breweries, wholesalers, bottle storekeepers, and carriers—while in performance of their duties as such—provided the liquor conveyed is in sealed receptacles.

385. *Section* fifty (1).—The existing law allows women to hold licences or shares in licences, but not to be employed as barmaids. It is constantly evaded by taking women into partnership in order to obtain barmaids. Such partnerships may be absolutely bogus or may, while genuine enough as far as the terms go, be simply a device to get round the prohibition against employing women. There is no possibility of preventing such evasions, nor is there anything to be said for the distinction which the law attempts to draw. If there is anything undesirable about having a woman in a bar, the objection is in no way overcome by her being the holder of the licence. Women should either be totally excluded or allowed to be employees as well as employers.

386. The objections to the presence of women in bars fall under two heads—(1) that it induces men to take more drink than is good for them, and (2) that it is bad for the women themselves. On the first point it is certain that men and youths sometimes go to the bars to talk to the barmaid, and that thereby drinking is

increased. On the other hand, the presence of a woman often checks positive intoxication, but the presence of women in bars does, on the whole, increase drinking.

387. From the second point of view, the important matter to consider is not how the presence of women in bars will affect the comparatively few women already in that business in the Transvaal, but how it will affect the many women who will, if allowed, become barmaids in future. It is certainly not a good training for a girl to spend the greater part of her time in a bar. The characteristics of such a life are that her society is almost exclusively that of men, many of whom are of an undesirable class, and many of whom are to some extent under the influence of alcohol; that she works very long hours; and that she hears a class of conversation which is not usual elsewhere within the hearing of women. The language is no doubt less offensive than it would be if no woman was present, but that is an advantage to the customers, not to the barmaid. It has been said that some of these disadvantages are shared by girls in tearooms and in offices. To a small extent this may be so, but no occupation other than serving in a bar combines all the objections set forth above.

388. In favour of admitting women to this occupation, it is generally agreed that their bars are cleaner and better conducted than those in charge of men; seeing that a place is kept clean and bright is a business generally left to women. The necessary publicity of a bar is some protection to the women employed there. There is also the general objection to interference with any sane adult's freedom of action, but the restrictions imposed on female labour by the English Factory Acts contravene this principle, and we do not think any one seriously proposes to repeal these.

389. In England and in other South African Colonies no such prohibition exists. In England a proposal to establish it has reached the point of being included in a Government Bill, though it was afterwards dropped, and we understand that the licensees in Bloemfontein have agreed among themselves not to employ barmaids. We are informed that in Canada and in the majority of the United States women are never employed in bars, although there is no legal prohibition, public feeling being opposed to their presence. In Australia they are so employed. In our opinion the balance of advantage is in favour of their exclusion.

390. The prohibition should be in much more definite terms than the present clause, and should extend to being employed in a bar at all, whether for the purpose of serving drinks or otherwise, and it should extend to rooms opening out of a bar.

391. An exception should be made in favour of those women who under the present law have taken up the business. In doing so they have acted lawfully, and they ought not to be deprived of their living for the benefit of the community or of future generations. This could be provided for by exempting from the prohibition all women who at a named date were licensees or recognized partners. These should be registered and exempted from the suggested provisions; they will of course fall under the operation of section *forty-four*.

392. Some allowance must also be made for women who are the heirs of licensees. The privileges conferred on executors by section *forty-two* and section *eleven* of Ordinance No. 8 of 1906 will be sufficient for this class.

393. *Section* fifty (2).—We think that the provision of this sub-section, which disqualifies for life from serving in a bar any person convicted of any offence against the Ordinance is too drastic. There are many offences against the Ordinance, some not of a grave character. We think that no offence should carry this penalty, unless the sentence awarded is imprisonment without the option of a fine.

394. With regard to the limitation of age, eighteen (as in the Orange River Colony) has been suggested as more suitable, and we think the change may do good, and can do no harm, saving those persons already in employment when the suggested change takes effect. The further suggestion to substitute "apparent age" for "age" we do not support. The employer can make what inquiries he likes, and—the penalty being discretionary—he is not likely to be awarded more than a nominal sentence if he can show that he was honestly and reasonably mistaken.

395. *Section* fifty-two.—The same question arises upon this section, and here, since the licensee can only judge by appearances, we think the test should be "apparent age". It is suggested that in this section also the age should be raised to eighteen years. We recommend that this suggestion be adopted.

396. *Section* fifty-three.—The only objection taken to this section is that it needs strengthening. It is not and cannot be made as efficient in a big town as in a little place where every one knows every one else, but even in the former case it is useful, as the black-listed man is hunted from one source of supply after another. The suggestion that a black-listed man should be compelled to submit to police photography is sound; also that he should be subjected to penalties for being in possession of liquor and to greater penalties than other people for drunkenness. The present practice at Johannesburg is, first, to have the offender warned by the police. If this does not have the required effect he is formally served with a notice that—unless by a named date he satisfies the magistrate (in private) that the allegations are unfounded—he will be black-listed. Only after failure to do this is an order made. The system has worked well, and we think that it should be provided in the statute that no order should be made until the alleged offender has had an opportunity of being heard.

397. *Section* fifty-six.—There is a complaint against this section that, while the licensee is held strictly responsible for the conduct of persons upon his premises, he is nowhere authorized to refuse to serve undesirable characters. We do not find any express provision in the statutes requiring him to serve all comers, and, apart from such a provision, there seems nothing to deprive him of the liberty enjoyed by any other trader. However, the point seems to be in some doubt, and it should be cleared up. Any one who keeps a hotel must, of course, be compelled to supply board and lodging under all reasonable circumstances, but we see no reason why any one should be compelled to supply alcohol. There is no fear that the licensee will arbitrarily and unreasonably refuse to sell his most profitable commodity. We recommend the adoption of section *eighteen* of the English Licensing Act, 1872, which runs:—

> "Any licensed person may refuse to admit to and may turn out of the premises in respect of which his licence is granted any person who is drunken, violent, quarrelsome, or disorderly, and any person whose presence on his premises would subject him to a penalty under this Act. Any such person who, upon being requested in pursuance of this section by such licensed person or his agent, or servant, or any constable, to quit such premises, refuses, or fails to do so, shall be liable to a penalty not exceeding £5, and all constables are required, on the demand of such licensed person, agent, or servant, to expel or assist in expelling every such person from such premises, and may use such force as may be required for that purpose. The court committing any person to prison for non-payment of any penalty under this section may order him to be imprisoned with hard labour."

398. Two other provisions of the English statutes which have been pressed on our attention, and which we think should be adopted, are section *twenty-five* of the Licensing Act of 1872, penalizing unauthorized persons found on licensed premises during closing hours, and section *seven* of the Licensing Act of 1902, penalizing persons who, on licensed premises, procure liquor for a drunken man.

399. To sub-section (3) it has been objected that there is no visible sign by which a licensee can know whether a policeman is on duty except the armlet, which is easily slipped off. The sub-section is, however, practically identical with section *sixteen* of the English Act of 1872, and, under that section, it has been held that, where the constable had removed his armlet and the licensee served him in the belief that he was not on duty, the licensee could not be convicted. [*Sherras v. de Rutzen* (1895) (1 Q.B. 918).]

400. *Section* fifty-nine (1).—It has been urged that, where a licensee is responsible for the acts of his servants or agents, he should be relieved of that responsibility upon showing that he was no party to the offence. This would be open to abuse by collusion between the licensee and his servant, while a licensee can use as much care as he pleases in selecting his servants.

401. *Sections* sixty, sixty-one, *and* sixty-two.—These sections have been objected to on the ground that they assume guilt. This idea appears to be based upon the mistaken view that "evidence" means the same as "proof", which of course it does not. In our view the sections only state that the court may draw certain inferences which any reasonable person would, in the absence of contrary evidence, draw. It is perfectly open to the accused to contradict these inferences by further evidence. No case of a conviction by virtue of these sections has been quoted to us, and the decision of the Supreme Court in the case of Tenekidis *vs.* Rex (1906), T.S. 771, shows that they do not go very far. We do not, however, see why section *sixty-one* should speak of "prima facie evidence" and section *sixty* of "evidence" alone. We think it would be well if the same phrase were used in each section.

402. It has been pointed out that section *sixty* makes consumption in the licensee's private room by his personal guests evidence of sale, and it has been suggested that such private rooms should be excepted. But we find it impossible to hit upon a definition of "private room" which would not lend itself to easy abuse. Seeing that a licensee who was really entertaining guests could have no difficulty in calling them as witnesses to prove the fact, we think it undesirable to make this exception.

403. A proposal has been made that the presence of persons with glasses on unlicensed premises should be made evidence of the sale of liquor to them, but this would be a departure from—not an extension of—the principle of the section. The consumption of liquor on licensed premises is properly deemed to be evidence of sale because, in the ordinary course of events, practically all the liquor consumed on licensed premises is sold. On unlicensed premises, on the contrary, liquor usually passes by gift, not by sale; so that the suggested presumption would more often be false than true.

404. *Section* sixty-six.—The language of this section is not happy. The essence of the offence created by it is not being drunk, but being found so by a magistrate, justice of the peace, or policeman, as if it were a species of contempt of a police constable to presume to be drunk in his august presence. This is, however, merely a matter of wording. The only substantial alteration we wish to recommend is that there should be power to arrest a drunken man on private premises at the express request of the occupier, and that drunkenness under these circumstances should be an offence as much as if it occurred in a public place. At present a person who gets drunk in a private house or yard cannot be interfered with.

405. *Sections* seventy-two *and* seventy-three.—These sections seem to us superfluous. Such details are for departmental arrangement, not statutory provision.

406. *Section* seventy-four.—The principal controversy upon this section has raged round the question whether the reports of the liquor traffic inspectors—who are, in fact, the police—should be made known to the persons reported on. There seems to be much doubt as to the present state of the law as regards this, and, in view of the language of the Ordinance, this is not to be wondered at. The last sentence of this section says that such a report "shall be considered in law as a privileged statement". In law this may mean any one of three things:—(1) That a witness in the box is privileged from revealing it; (2) that, in an action for libel, it is absolutely privileged, i.e. that the inspector may make any false statement he pleases without being amenable in damages; or (3) that, in such an action, it has a qualified privilege, i.e. that an inspector, writing honestly and without malice, is not liable for damages caused by his mistakes. Section *seventy-five* provides that in case of renewals only the inspector may be cross-examined by any person interested as to the contents of his report. This is absolutely incompatible with keeping the report secret. Section *twenty-six* (1) requires notice of objection to be given to the applicant in cases of renewal. Presumably this includes notice of the ground of objection; if not, there is no point in it; no one can prepare to meet an objection unless he knows its nature. Section *twenty-eight* (2) requires the court when it takes objection on its own account to a renewal to notify the applicant of the objection, which again presumably means the nature of the objection.

407. It is thus required that the applicant for a renewal shall in any case learn the nature of any objections raised by the police reports. That being so, it is absurd to suppose that these reports are privileged from disclosure in the witness-box. Indeed, Mason, J., has decided in the case of Frenkel *vs.* Ohlsson's, in the Rand High Court (not yet reported), that they are not. If the intention is that they should be absolutely privileged in cases of libel, we disagree with that intention, as a wide door for malice would thereby be opened. If it is only meant that they should have a qualified privilege the section is superfluous—they certainly have that privilege by common law, as being statements made in the course of duty. All these complexities should be swept away and a plain statement substituted as to whether the applicant is or is not entitled to see the inspector's reports.

408. With regard to applications for new licences we think he should not be so entitled. Such an applicant is a mere seeker of a favour from the State, and has no right to anything beyond a patient and courteous hearing to what he has to say for himself. The applicant for a renewal is in a totally different position. He has already been accepted by the court as a convenience to the public, and he has usually invested money upon the faith of that acceptance. No court ought under these circumstances to change its opinion except upon definite grounds. Those grounds may be mistaken, and the court cannot discover whether they are mistaken except by hearing what the applicant has to say against the inspector's assertions of fact or expressions of opinion.

409. The only objection to the publication of these reports to the person affected is that the inspectors might speak less freely. In view of the provisions already pointed out, we think that the existing law requires the inspector to be prepared to stand to his report. And, quite apart from the existing law, we think that the advantage of a frank report is less than the danger of irresponsible reporting. While we desire to assert definitely that no instance has been produced to us of the inspectors abusing their power, we think that their reports should be open to inspection by the licensee or his agent (not by the public) five days before each sitting.

410. *Section* seventy-seven.—The allegation that adulteration is extensively carried on is hardly a portion of the liquor question, but is a matter of public health, and should be dealt with in that connection. Similarly, the allegation that liquor imported in bulk is, for want of control, sometimes bottled under false labels deserves the attention of the customs and excise authorities.

411. *Section* eighty-one.—Licensees have asked for a readier method of realizing on goods retained by them under their innkeeper's lien. It must be observed that this procedure is already exceptionally favourable; any person other than a licensee would have, in similar circumstances, to sue and obtain judgment before he could realize. It would hardly be safe to go further than the present provisions..

412. *Section* eighty-two.—This section deprives licensees of the right to recover civilly the price of liquor sold for immediate consumption. A suggestion has been made that it should be a criminal offence to order food or drink and to consume them in a licensed house without having money to pay for them. The ground for such a special provision is that it is practically impossible to avoid giving credit during the consumption of a drink or a meal, and that there should be some protection to the vendor against the dishonesty of persons who take advantage of this. This argument, of course, applies not merely to licensees, but also to keepers of tearooms, etc., but the latter have their civil remedy. There seems to be quite a number of persons who take advantage of the present state of the law, and a criminal remedy would be a protection against these without appreciably assisting the sale of drink on credit. In England it has been held that to obtain a meal in a restaurant without the means or the intention to pay for it is a contravention of section *thirteen* of the Debtors Act, 1869, and we recommend that some similar provision be inserted in the Transvaal statutes.

413. *Section* eighty-three (3).—Customers often pay cash at a bottle store for liquor to be subsequently delivered. It would seem that, under this sub-section, such a practice, which seems to us quite harmless, is prohibited. The sub-section was probably directed at the practice, alleged to be prevalent in some parts, of men coming to town after a long interval, handing the licensee a cheque,

possibly the earnings of several months, and drinking until the money is exhausted. We think that the operation of this sub-section should be confined to liquor sold for consumption upon the licensed premises.

414. *Section* eighty-seven.—The suggestion that the president of the court, instead of the Governor, should be empowered to call emergency meetings of the licensing court has been put forward as making the calling of such meetings easier. We do not think that this would be an advantage; frequent sittings for the purpose of granting new licences tend to unduly harass those members of the public who wish to oppose them.

415. *Schedule* 2.—In place of the present fixed charges for licences, three alternatives have been suggested; that these charges should vary with the turnover, with the value of the licensed premises, or with the population of the town in which they are situated. The system of a charge for a licence varying with the turnover has just been abandoned with regard to other businesses, and it would be somewhat anomalous to adopt it for the liquor trade only. The system of charging in proportion to the value of the licensed premises does not seem suitable to the facts. The business done in licensed houses at Johannesburg does not in fact vary in proportion to their rateable value, even in the case of bars, and it is obvious that a very big wholesale business can be conducted in premises which are rated very low. The system of charging in proportion to population would give extraordinary results. Every licensee in Johannesburg would pay a hundred times as much as a licence in some of the small towns. If the Johannesburg licensee did the trade of the whole town there might be reason for this, but in fact he has 200 competitors, while the licensee in the small towns has two or three at most. Seeing that there is a maximum of retail licences to population laid down by the statute, and that there is a tendency in licensing courts to approach that maximum, every licensee, whether in a large or small town, has, approximately, the same average number of customers. The case of the very small town is already met by the provision in this schedule that, in a village of not more than 400 white male persons over the age of 16, the general retail licence costs only half the amount charged elsewhere.

416. Various representations have been made to us that, apart from the basis of taxation, the existing charges themselves are too high. The extreme eagerness manifested by would-be licensees to acquire, and by actual licensees to retain, the privilege of paying these charges hardly supports this view. As to the exact amounts which should be charged we have nothing to say; this cannot be settled without taking into consideration the current needs of the Treasury.

Ordinance No. 68 of 1903.

417. *Section* one.—The experience of the Railway Administration is that the railway employees' licences granted under this section are entirely mischievous; in fact they are no longer granted. Railway construction gangs contain a considerable proportion of men who have been reduced to that class of work by excessive indulgence in drink. Such gangs would be the better for having exceptionally small rather than exceptionally great facilities for obtaining liquor. We recommend that this section be repealed.

Ordinance No. 8 of 1906.

418. *Section* fourteen.—This section (requiring permits for the removal of any liquor exceeding eleven bottles in quantity) does not apply to the C.S.A.R., and it was thus possible for persons to import large quantities of liquor and have them delivered in railway vans without the knowledge of the police. But since this was pointed out to us the Railway Administration have, by means of departmental instructions, required all persons wanting liquor so delivered to produce a permit from the magistrate in the ordinary form, so that this gap is now closed. To ensure the continuity of this arrangement, we think the Railway Administration should be brought within the operation of the statute.

419. Brewers are exempted from the permit system, an exception of which the other licensees who deal in beer complain. We do not think there is much ground for this complaint. It is not much extra trouble for a licensee who deals in all sorts of liquors and has, therefore, to be constantly making out permits, to make out a few more, while it is a great relief to the brewer not to have to do it at

all. The police have, however, brought to our notice the fact that illicit dealers are taking advantage of this exemption by conveying spirits in bottles got up to look as if they contained beer. We think this might be met by giving the police authority to stop and investigate all vehicles apparently containing liquor, whether beer or anything else, and we recommend that they should have such power.

420. It is not obvious why the section is confined to liquor conveyed "from any premises in any town, village, or municipality". The occasions must be very rare when a dozen or more bottles of liquor are moved from anywhere but licensed premises, and, under the present law, no premises licensed for "off" sale can exist outside these limits except on a public digging. It can hardly have been intended to exempt the latter, which is just where restraint is most needed. We recommend that the provisions should apply everywhere.

421. It has also been suggested that wine as well as malt liquors might safely be exempted. At present wine is not used to any considerable extent for the illicit trade because, while less powerful than spirits, it is subjected to the same restraints. It does not follow that it would not be so used if it were made easier to handle. The heavier wines, at any rate, appeal to natives.

422. It has been suggested that the penalty for removal of liquor without a permit is insufficient, and that there should be added a provision for the confiscation of vehicles found conveying illicit liquor. Such vehicles are, however, often the property of third parties. It would be unjust to confiscate them without allowing the owner an opportunity to explain, and this must necessarily resolve itself into the trial of the issue whether he was or was not a party to the criminal offence. We do not think that this could conveniently be tried in this form. There is no similar objection to the confiscation of all liquor found in the possession of the convicted person.

423. The permit system, though very useful in checking the illicit trade, still leaves gaps to be filled. On the Rand a method used by the illicit dealer is first to collect the payment for the liquor and subsequently to go and hide the bottles in a mine-dump or some similar spot which he has arranged with the native purchaser. Thus the police may catch him actually conveying or even hiding the liquor, but no charge can be made against him if the amount in his possession is less than eleven bottles. The police have asked that any person conveying liquor across any mining ground without lawful reason shall be liable to arrest and prosecution. We think that such a provision, carefully guarded to secure the rights of residents and employees on the property and of those persons whose business takes them on to or across the property, would be desirable.

424. Another gap in the law to which the police have drawn our attention is the absence of any means for preventing the accumulation of large quantities of liquor in the hands of known illicit dealers. A case was quoted to us in which the police found an amount of 600 bottles in the house of two such dealers. As no actual sale was proceeding at the moment no charge could be laid, and the liquor had to be left to be disposed of in the ordinary course of the illicit trade. We recommend that any person convicted of selling to natives be prohibited for two years thereafter from having more than two gallons of liquor in his possession at one time, and that a magistrate's court be empowered—upon evidence that any greater quantity has been seized in the possession of a person who has been so convicted within the two years preceding the seizure, or who is proved to be an habitual associate of persons so convicted—to order the confiscation of the liquor so seized.

PART IX.—SUMMARY OF RECOMMENDATIONS.

PART IX.—SUMMARY OF RECOMMENDATIONS.

(*Note.*—This Summary contains no allusion to matters upon which the Commission are of opinion that the law should remain unchanged.)

We recommend that:—

	Paragraph No.
Reference C.	
(1) For the purpose of liquor restrictions non-Europeans should be divided into two classes:—(*a*) Natives (used in the broadest sense); (*b*) other coloured persons.	12
(2) The liquor branch of the police on the Rand should be increased.	24
(3) Alien illicit liquor dealers should be deported at the expiration of their sentences.	26
(4) Native habitual drunkards should be returned to their kraals, and not re-engaged.	27
(5) The police, without being placed in control of the mine compounds, should be so posted as to exercise a closer supervision over them.	28
(6) Pyridine should be used in the denaturing of methylated spirits.	29–30
(7) The sale of yeast to natives should be prohibited.	31
(8) Areas should be proclaimed within which canteens for natives may (subject to the consent of the Governor where neighbours object) be established.	69–70 105
(9) In such canteens the Government should sell to natives, for consumption on the premises only, wholesome kaffir beer of an approved alcoholic strength.	105 (2) Messrs. Munnik and De Villiers would extend this to natural wine.
(10) In these canteens suitable food should be supplied either by the Government itself or by native lessees of tables.	105 (3)
(11) Existing kaffir eating-houses should be expropriated.	
(12) Outside the proclaimed areas the existing law relating to the manufacture and consumption of kaffir beer should be retained, subject to three modifications:—	105 (4)
(*a*) Beer parties should not be allowed except upon written authority from the employer (if any) of the native host and from a responsible official.	
(*b*) Each guest attending such a party should be required to have a permit from his employer (if any).	
(*c*) The host should be liable to a fine if any crime of violence takes place at or in consequence of the party.	
(13) Outside proclaimed areas bona fide European employers should be permitted to give to their native servants liquor of the same class as is sold in native canteens.	105 (5)
(14) The sale to coloured persons and Asiatics, for consumption on the premises only, of any liquor except spirits should be legalized.	105 (6)
(15) Bona fide European employers should be permitted to give to their coloured or Asiatic servants any liquor except spirits, provided such liquor be consumed in the presence of the employer or his representative.	105 (7)
(16) On premises licensed for the sale of any specific class of liquor only, no liquor of any other class should be allowed. Such premises should not be permitted to have any entrance communicating with any other premises. Licences to sell such liquor should be in all other respects subject to the restrictions affecting a general retail licence.	105 (8)
(17) No licence should authorize the sale of liquor to both Europeans and non-Europeans on the same premises.	105 (8)
(18) The Governor shall have authority to grant or withhold, in his absolute discretion, letters of exemption to any of the prohibited classes; such letters to be revocable at will.	106

Paragraph No.

Reference B.

125 and 137 (19) Distillation of spirituous liquors in this Colony from all forms of produce should be allowed subject to strict excise restriction.

137 (20) Distillers should be required to obtain an annual licence and to enter into security for the payment of an amount sufficient to cover the expense of supervision for the current year.

132 and 137 (21) No artificial assistance should be given to the distilling industry.

126 and 137 (22) No exemption in favour of producers for their own use should be allowed.

128, 129, and 137 (23) The necessary machinery for co-operative stills should be provided.

Reference D.

145 (24) The Government, but not local authorities, should be empowered to prohibit the sale of liquor in particular areas.

148 (25) It should not be lawful to grant any liquor licence within such an area without the consent of the Governor, and then only subject to such conditions in every respect as the Governor may prescribe.

Reference E.

171 (26) By the extension of section *seventy-nine* of Ordinance No. 32 of 1902, statutory power should be given to the Government to assume the sole and exclusive control of intoxicating liquor, but no further step should be taken at present.

Reference F.

200 (27) No agreement for the sale, pledge, transfer, or other dealing with a licence should be of any legal validity until it has received the approval of the licensing authority.

200 (28) Agreements by a licensee to purchase any class of article exclusively from any person, firm, or class of persons should be invalidated.

200 (29) No power of attorney from a licensee to apply for transfer or removal should be valid for more than forty days if executed in South Africa, or for more than forty days *plus* the usual course of post if executed elsewhere.

200 (30) No security for or incident to any contract invalidated by the above clauses should be of any force or effect.

203 (31) Existing contracts should be exempted from the last four recommendations.

Reference A.

217 (32) Licences intended for wholesale trade should be exempt from the provisions of section *eighty-three* of Ordinance No. 32 of 1902, and should authorize sales (whether direct or through canvassers) to licensees, but should not (subject to the exception contained in the next recommendation) authorize sale to unlicensed persons.

217 (33) Licences intended for retail trade should authorize sales to all persons, but only on the premises in respect of which the licence is held, and not through agents.

218 (34) A certificate from the Commissioner of Police that the holder of a brewer's licence controls no tied houses should authorize such holder to sell to unlicensed persons in response to orders (verbal or written) received at the premises in respect of which such licence is held, and not obtained through an agent.

219 (35) Malt liquor licences should authorize sales of wines of a low alcoholic strength as well as malt liquors.

221 (36) A minimum proportion of the licences permitted under section *two* of Act No. 33 of 1909 should be malt licences, and in granting such licences preference should be given to premises with suitable gardens, etc.

(37) Local option elections should proceed upon a basis of parliamentary voters.

229 (38) No local option vote should be taken except within three months after the publication of a new register of voters.

Paragraph No.

(39) The ward should cease to be a unit for purposes of local option, and a provision should be substituted under which the residents within 150 yards of any proposed new retail licence may veto its grant. 230

(40) Provision should be made under which any person or body of persons instigating a vote should guarantee the cost in case the position remains unchanged. If it is altered, the expense should be borne by the public. 231

(41) In every case where the question is that of closing or opening an area to licences, all voting should be by ballot; where it is merely one of prohibiting an individual licence, the system of memorials should be adhered to. 232

(42) Within a prohibited district no sales should be permitted except to passengers on long distance trains while in motion, and by breweries and distillers for delivery outside the district. 233

(43) Each local authority in the district should nominate one member of the licensing authority, the Government nominating the remainder. The Government nominees (exclusive of the president) to be at least as numerous as the representatives of local bodies. 240

(44) Brewers', distillers', and foreign travellers' licences should be granted by the head of the excise: railway licences by the Railway Administration; canteen licences by the Commanding Officer; temporary licences by the Magistrate. All others by the Licensing Board. 242

(45) The licensing authority should not be called a "court". 244

(46) When any question of law is raised before a licensing authority, the president alone should decide it, giving his reasons therefor; in cases of renewal it should be open either to the applicant or to any objector to appeal to the Supreme Court against the decision. 262

(47) There should be only one sitting annually for general business, but the president should have power to call additional meetings, not oftener than once a month, if there is any business to be done. 271

(48) At such additional meetings, transfers, removals, and recognitions of interest under section *fifty-nine* (2) should be dealt with, and the licensing authority should, upon the complaint of the principal police officer of the district, after due notice to the licensee, have power to cancel any licence. 271

(49) In case of the absconding of the licensee or the destruction of licensed premises by *vis major*, the resident magistrate should have power to authorize any arrangements which he approves for carrying on the business until an additional meeting of the licensing authority can be held. 271

(50) The system of granting temporary transfers and removals should (subject to the provisions of the last preceding recommendation) be abolished.

(51) It should not be lawful to grant a club licence until it is shown 283

(*a*) that a register of members is kept;

(*b*) that the club is managed by a committee elected by the members;

(*c*) that the committee holds regular meetings and keeps proper minutes;

(*d*) that no ordinary member can be elected less than fourteen days after nomination or without his name having been published on the club premises for at least seven days;

(*e*) that election is by the committee or by all members whose accounts are not in arrear;

(*f*) that the rules of the club, as amended to date, are before the licensing authority;

(*g*) that proper accounts are kept;

(*h*) that only members are allowed to pay for anything in the club;

(*i*) that the annual subscription is at least £1.

(52) No agreement between a club and a caterer for the supply of liquor should be permitted unless with the sanction of the licensing authority. 285

(53) No person residing within ten miles of the club premises should be admissible otherwise than as an ordinary member. 289

(54) All commissioned officers of police should be entitled to enter and inspect any club and to examine its books. 290

(55) The licensing statutes should be redrafted and codified. 293

(56) Alcohol should be measured by the percentage of proof spirit. 298

(57) No new licence should be granted and no extension or structural alteration of existing licensed premises permitted until plans have been deposited with and have received the sanction of the licensing authority. 299

Paragraph No.

307 (58) A hotel licence should authorize sale at any hour of any day to lodgers, a lodger being defined as a person who has either slept the preceding night in the hotel or has registered there and deposited luggage or paid for his bed.

309 (59) A hotel licence should authorize sale at any hour of any day to persons taking a bona fide lunch or dinner, as defined in Regina *v.* Sutton (10 S.C. 273).

310 (60) In future no hotel licence should be granted in a town save in conjunction with a general retail licence.

The Chairman and Mr. Munnik consider that this should also apply to the country, and that the grant of a general retail licence should be legalized wherever it is legal to grant a hotel licence.

311 (61) The sale by bottle stores of less than pint bottles should be prohibited.

The Chairman dissents.

316 (62) No new restaurant licence should be granted save in conjunction with a general retail licence.

317 (63) The hours of bottle store keepers should be assimilated to those of butchers.

329 (64) Bar and bottle store businesses on the same premises should be prohibited.

331 (65) Railway station licences should authorize sale to passengers only.

337 (66) Every member of a licensing court, before sitting or acting, should sign a declaration that he is not disqualified under any terms of section *eleven* of Ordinance No. 32 of 1902, and that he not opposed in principle to the sale of liquor; this declaration should be repeated before each annual sitting.

338 (67) It should be made clear that proprietary members of clubs are not disqualified from sitting on the licensing court.

339 (68) The members of the licensing court should hold office until 31st December, or the close of the annual sitting, whichever be the later.

340 (69) Each licensing court should have discretion to lay down the latest hour at which bars, restaurants, and beerhalls within its district are to close, such hour not to be earlier than 9 p.m., and not later than midnight; this closing hour should be uniform throughout the district. Holders of licences should have the option of obtaining from the Receiver of Revenue a licence entitling them to keep open only until some specified hour earlier than the hour laid down by the licensing court, a proportionate reduction on the price of their licence being allowed.

341 (70) The licensing court should be given power to subpœna witnesses.

342 (71) The period allowed for late entries should be reduced to five days.

343 (72) In every case of an application for a removal or for a new licence a notice should be posted on the premises in respect of which the application is made.

344 (73) The value of the revenue stamp to be affixed to every application for a new licence should be materially increased.

345 (74) Means should be provided for enforcing the attendance of objectors.

346 (75) It should be plainly laid down that the notice of objection sent to the secretary and to the licensee must state the grounds of the objection.

347 (76) The resident magistrate should be authorized to dispense with the appearance before the licensing court of any applicant for a licence, such dispensation to be in writing.

354 (77) Provision should be made by which the bona fide agent of a foreign firm may obtain a licence to sell to licensees only without being required to reside in the Colony.

356 (78) The number of licences for the sale of wine, etc., to coloured persons should be limited to 1 to every 250 coloured males over the age of 21. The Colonial Secretary should notify the numbers after each census.

Paragraph No.

(79) The restrictions as to distance between wayside hotels should only apply to hotels on the same road. 362

(80) Liquor businesses should be brought within the provisions of the Registration of Businesses Act, 1909. 364

(81) In a case where a licensee absconds an opportunity should be given for a temporary transfer to any person who has the written consent of the owner of the premises. 366

(82) In case of violent destruction of licensed premises, the resident magistrate should have discretion to reduce the period of notice previous to removal upon such conditions as he thinks fit. 368

(83) A trustee of an insolvent licensee should have a year instead of six months during which he may hold the licence. 371

(84) The minimum sentence for illicit liquor selling should be abolished. 378
Sir W. van Hulsteyn and Mr. Loveday dissent.

(85) Liquor for sacramental use should only be obtainable by prohibited persons upon an order from the magistrate. 379

(86) A prescription from the district surgeon should authorize the sale of the prescribed amount of liquor to prohibited persons. 379

(87) In section *forty-seven* the penalty as to the premises should be abolished and the penalty as to the person confined to cases where the sentence is imprisonment without the option of a fine. 380

(88) It should be clearly set out that prohibited persons may not be employed as messengers to convey liquor, provided that the servants of licensees or of carriers, while in the course of their duties as such, should be exempted if the liquor is in sealed receptacles. 382

(89) Women should be excluded from occupation in bars and rooms opening out of bars, whether for the purpose of serving drinks or otherwise, and whether as employees or as licensees; but an exception should be allowed in favour of those women who at present hold liquor licences. A female heir of a licensee should have the rights of an executor in this respect. 389 and 390

(90) An offence should not disqualify for employment by a licensee unless the sentence awarded is imprisonment without the option of a fine. 393

(91) The age limit of employees should be made 18 instead of 16 years, saving the interests of those persons already in employment. 394

(92) The prohibition to supply liquor to any person under 16 years of age should be varied to "apparently under 18 years of age". 395

(93) Provision should be made that no person should be black-listed until he has had an opportunity of being heard. 396

(94) Licensees should not be compelled to supply liquor. 397

(95) Sections *eighteen* and *twenty-five* of the English Licensing Act, 1872, and section *seven* of the English Licensing Act, 1902, should be incorporated in the Transvaal statutes. 398

(96) There should be power to arrest a drunken man on private premises at the express request of the occupier, and drunkenness under such circumstances should be an offence. 404

(97) The police reports should be open to inspection by the licensee or his agent five days before each sitting. 409

(98) It should be a criminal offence to order food or drink and consume them in a licensed house without having the means or intention to pay for them. 412

(99) The prohibition of payment in advance for liquor to be supplied should be limited to liquor sold for consumption "on". 413

(100) The railway employees' licence should be abolished. 417

(101) The police should be authorized to stop and examine all vehicles, etc., apparently containing liquor, whether beer or anything else. 419

(102) The system of requiring permits for the removal of liquor should apply all over the Colony. 420

(103) It should be an offence to convey liquor across any mining ground without lawful reason. 424

(104) It should be made an offence for any person convicted of selling liquor to natives to have, within two years after such conviction, more than two gallons 424

of liquor in his possession at one time, and a magistrate's court should be empowered to confiscate any greater quantity of liquor than two gallons found in possession of a person so convicted or proved to be an habitual associate of persons so convicted within two years of the seizure.

(105) Finally, your Commissioners desire to place on record their appreciation of the ability and zeal with which Mr. J. G. V. van Soelen has performed the duties of secretary to the Commission.

All which we desire respectfully to submit to Your Excellency's consideration.

(Subject to Reservations 3, 4, and 5.)

H. O. BUCKLE, Chairman.

(Subject to Reservation 6.)

W. VAN HULSTEYN.

(Subject to Reservation 6.)

R. KELSEY LOVEDAY.

(Subject to Reservations 1, 3, 4, and 5.)

G. G. MUNNIK.

(Subject to Reservation 2.)

T. N. DE VILLIERS.

J. G. V. VAN SOELEN, Secretary.
Johannesburg, 30th March, 1910.

RESERVATION No. 1.

1. It is admitted on all sides that the illicit trade in spirituous liquors with mine boys is a canker in the administration of justice. It does not require argument to show that owing to the necessary secrecy which this trade requires the boys have to purchase and consume at a drink a quantity of vile spirit, which is not only demoralising in its effects, but also highly injurious to the health of the boys.

2. We have it on the unimpeachable evidence of highly placed and trusted officials like Colonel Burns-Begg, Commissioner of Police; Magistrate Jordan, and others, that it will be very difficult, if not impossible, to suppress the illicit trade unless the boys get a substitute of alcohol in attenuated rations. Such being the case, I consider it the bounden duty of the Government to try the experiment of allowing the sale in a supervised canteen of wholesome unfortified wine, under strict supervision, as a remedy for the evil.

3. From my knowledge of the native and his habits, I am of opinion that, owing to his familiarity with kaffir beer, no supply of this beverage, no matter how liberal, will have the desired effect of weaning him from the illicit dealer. It is a fact that, at this moment, instead of confining himself to kraal kaffir beer, which he could easily get, he resorts very largely to stronger and vile concoctions, such as skokiaan and khali.

4. It must be borne in mind that the native working on a mine has not the diversions which come into a white man's life. He has to be satisfied with working, eating, and sleeping to pass his time, and for diversion he indulges in drinking the poison which the illicit dealer supplies him with.

5. Among the scores of witnesses heard there is a consensus of opinion that under all circumstances and at any cost the native will strive for and obtain drink illicitly if he cannot get it legitimately, and, acting on the principle that

he should be educated up to the best of the white man's customs, I think he should be taught self-restraint in his drinking habits under supervision, and, therefore, in order to save him from the vile concoctions which he now consumes in immense quantities, he should be allowed, in addition to kaffir beer, to purchase the least harmful of alcoholic drinks in the shape of natural wine and European beer from the supervised mine canteen to be consumed on the premises.

6. I select wine and European beer because the supply is easily controlled and because these beverages are not only harmless, but, in the case of the East Coast boy, wine is a positive necessity for the preservation of his health and stamina.

7. There is evidence that in tests boys who have been supplied with wine have done more work and with less physical exertion than their competitors who were not allowed wine.

8. Actuated by all these reasons, I am induced (while agreeing fully with all the other conclusions in the report) to differ upon this one point, and respectfully beg to offer to Your Excellency my conclusions arrived at after mature consideration of the evidence, the importance of which I have duly considered.

G. G. MUNNIK.

J. G. V. VAN SOELEN, Secretary.
Johannesburg, 30th March, 1910.

RESERVATION No. 2.

1. I regret that I cannot subscribe to the conclusions in paragraphs 89, 90, 92, and 105 of the majority report, because I do not consider these conclusions sufficiently warranted either by the premises and arguments therein set forth or by the evidence obtained.

2. I am quite in accord with the arguments in paragraph 11 of the report to the effect that as the Transvaal has the most stringent liquor laws in South Africa its contribution towards any compromise must necessarily be some relaxation of restrictions. Also with paragraph 17, that restriction creates an enormous and continuous illicit sale of liquor to natives on the Rand, to abortively attempt to suppress which involves annually an immense cost to the Treasury for police, prisons, and machinery of law.

3. I agree that these abortive attempts at prohibition foster a habit of law-breaking, maintain a most undesirable class of citizen, and tend to fill our prisons with white people who should not be there (paragraphs 17 and 19). Also that the native himself is producing stronger stuff than natural kaffir beer, such as skokiaan and khali, and that he is acquiring a taste for stronger drinks in spite of the very drastic restrictions of the Transvaal Law (paragraph 36). Also that we should guide the native and control his use of alcohol until all restrictions can be removed and he attains the status of a free adult (paragraph 37). Further, the prohibition has no educative effect (paragraph 50).

4. Now we have to face the fact that some 91,412 natives, or over 37 per cent. of the total number employed on the Witwatersrand and other Transvaal mines come from Portuguese Africa, where the use of wine is generally allowed them, and that some 53,000 natives come from the Cape Colony, where to some extent also the use of wine, *inter alia*, is permitted them.

5. As shown in paragraph 44 of the majority report, the Mining Regulations Commission, after carefully considering the various aspects, recommends that where natives were accustomed to wine they should be given a moderate allowance under regulation, and this finding of that commission is strongly supported by the evidence subsequently tendered to this commission by men eminently qualified to be heard on the subject.

6. I am quite convinced also that this large proportion of natives will not be satisfied with kaffir beer, and that the illicit trade, though perhaps diminished, will still continue. An element will then remain which will spread contagion to other natives, and the educative value of the system proposed in the majority report will be nullified.

7. It seems, moreover, illogical, as well as impracticable, to make special provision, as contemplated in the majority report, for the comparatively small number of coloured people as well as for the comparatively small population of Asiatics—the bulk of whom are debarred by their religion from drinking wine—and not to provide for the comparatively large number of wine drinkers among the Rand natives.

8. For these reasons I have come to the conclusion that the use of kaffir beer, natural wine, and malt liquor should, with limitations indicated below, be permitted to non-Europeans, and I would recommend that, within such areas as may be proclaimed by the Government, instead of two classes of Government canteen respectively for natives and for Asiatics and coloured people, only one class of Government canteen should be allowed, at which only coloured people, Asiatics, and natives may be supplied with kaffir beer of not exceeding 13 per cent. of proof spirit, malt liquor of not exceeding 10 per cent. proof spirit, or natural wine of not exceeding 20 per cent. proof spirit. It will be noted that there is a wide margin between the alcoholic strength of these liquors—which approximate each other in strength—and that of spirits which is of 77 per cent. proof spirit.

9. With regard to the non-proclaimed areas (see section *five* of paragraph 105 of the majority report) I would recommend allowing the bona fide European employer to give his native servant any of the liquors mentioned in the foregoing section, and such in moderate quantities to be consumed in his presence.

T. N. DE VILLIERS.

J. G. V. VAN SOELEN, Secretary.
Johannesburg, 30th March, 1910.

RESERVATION No. 3.

We do not see any advantage in the provision that retail liquor sellers shall not be open on election days until the poll has been closed. The restriction can hardly be aimed at the preservation of order, for the time of greatest public excitement is not during the polling but afterwards, when the results are being declared. The other possible objects are to prevent "treating" and to ensure that the voter shall remain sober until he has given his vote. "Treating" is already a corrupt practice, and we do not think the whole community ought to be inconvenienced in order to protect a few canvassers from the temptation to break the law. As to the other reason, no doubt some voters will get drunk whenever they get the chance; it does not seem to us of much importance to the commonwealth whether these cast their votes drunk or sober.

No similar prohibition occurs in the law of Cape Colony or Natal, and it seems to us that such a clause will put serious difficulties in the way of obtaining uniformity.

H. O. BUCKLE.
G. G. MUNNIK.

J. G. V. VAN SOELEN, Secretary.
Johannesburg, 30th March, 1910.

RESERVATION No. 4.

We are of opinion that it should be lawful to grant general retail licences wherever it is now lawful to grant hotel licences. The evidence shows that, in the country, the prohibition on serving drink except with a meal is very generally disregarded, with the assent of everybody concerned. That a statute should be constantly contravened by persons who are habitually law-abiding, and even, as it is certainly the case in some places, with the tacit consent of those whose duty it is to enforce it, is strong evidence that the law is unsuitable to the circumstances. The grant of general retail licences in cases where the licensing court considered them necessary would obviate this, and it is not easy to see how the mere legalizing of an existing practice could have any evil effect. The main objection is based on the experience of thirty years ago in the Free State. There every country store sold liquor, and we have had much evidence as to the evil results of this practice. The Transvaal law has, however, a valuable safeguard in section

thirty-five of Ordinance No. 32 of 1902, by which no licence can be granted unless proper hotel premises exist, and then only at a distance of at least twelve miles from any other licensed premises. In the Cape and Natal, general retail licences are granted in the country, and we do not anticipate any danger to the Transvaal in following the practice of the greater part of South Africa.

H. O. BUCKLE.
G. G. MUNNIK.

J. G. V. VAN SOELEN, Secretary.
Johannesburg, 30th March, 1910.

RESERVATION No. 5.

It seems to us unnecessary to prohibit the sale by bottle stores of bottles containing less than a pint. The function of the bottle store is to provide liquor for consumption off the premises in such quantities as the public find convenient. That these "tots" are found convenient is shown by the fact that there is a sale for them. We do not think it likely that they are consumed on the premises or just outside. Where there is a bottle store, there is always a bar within easy reach, and the superior conveniences of the latter must, to most people, outweigh any small economy effected by purchasing at the former. Nor do we find any evidence that the sale of these small bottles is encouraging the drink habit among women, and we think it improbable that there are many women who, while resisting the temptation to buy a pint, will succumb to that of buying a tot.

Concurs Buckle & Root S.C.

H. O. BUCKLE.
G. G. MUNNIK.

J. G. V. VAN SOELEN, Secretary.
Johannesburg, 30th March, 1910.

RESERVATION No. 6.

We are unable to agree with the conclusion arrived at by the majority of the members of the commission in paragraph 378, that the minimum sentence be abolished.

Whilst accepting the view that to fix a minimum sentence may theoretically be unsound under ordinary conditions, we are, however, of opinion that the exceptional conditions prevailing on the Witwatersrand justify a departure from that rule. The whole history of the illicit liquor trade shows that the most severe penalties do not deter a large number of persons from carrying it on with the greatest and most determined regularity. It is a well-known fact, fully substantiated by the police evidence, that many undesirable foreigners flock to the Rand to make money rapidly by any means possible, and we feel sure a considerable number of them will resort to the illicit trade more readily if they know that the first time they are caught at it they might receive a light sentence. It is pointed out by the majority of the members of the commission that it can but seldom happen that a first offence results in a conviction, and there can be no doubt that the majority of the persons convicted are carrying on the trade as regularly as if it were a legitimate occupation.

The police authorities are unanimously averse to the abolition of the minimum sentence: they contend that the non-criminal classes seldom resort to it, while, on the other hand, criminals habitually do. Other witnesses have advocated its abolition on the ground that persons not belonging to the criminal classes are in moments of hunger and distress driven to illicit dealing, and that such or any extenuating circumstances cannot be taken into account under the existing law. These statements, though made in good faith, we have found unreliable in the two or three alleged "hard cases" which have been brought to our notice. In such cases the Attorney-General now has authority to mitigate, and we consider this quite sufficient. For these reasons we recommend that the law be not altered in this respect.

W. VAN HULSTEYN.
R. KELSEY LOVEDAY.

J. G. V. VAN SOELEN, Secretary.
Johannesburg, 30th March, 1910.

ANNEXURES.

ANNEXURES.

Annexure No. 1.

COPIES OF LETTERS RECEIVED FROM PRETORIA MUNICIPALITY, TRANSVAAL CHAMBER OF MINES, JOHANNESBURG CHAMBER OF TRADE, TRANSVAAL AGRICULTURAL UNION, TRANSVAAL MEDICAL COUNCIL, AND TRANSVAAL MEDICAL SOCIETY.

Municipality of Pretoria.

Town Clerk's Office,
1193/127/09. Pretoria, 12th March, 1909.

The Secretary,
Liquor Commission,
P.O. Box 367, Johannesburg.

Sir,

Adverting to your letter No. 45/08 of the 20th October last and subsequent correspondence, I have the honour to inform you that in consequence of the diversity of opinion of Councillors on the several references of the Liquor Commission, the Council, at yesterday's meeting, resolved not to make any statements or to tender any evidence regarding such references.

I understand, however, that several Councillors, in their private capacity, will give evidence before your Commission.

I have the honour to be,
Sir,
Your obedient servant,

John S. van Reesema,
Town Clerk.

Transvaal Chamber of Mines.

Johannesburg,
30th January, 1909.

Sir,

With reference to your letter of 20th October, 1908, in which you request this Chamber to draw up a statement under the terms of reference to your Commission, and to tender evidence in connection therewith, I have the honour to inform you that my Executive Committee do not desire to offer any remarks except under the third head of reference.

In regard to (*c*), my Executive adhere to the views which have been consistently put forward by the Chamber during the past eighteen years, namely, that it does not appear likely that any restrictions imposed in connection with the sale of intoxicating liquor to natives would prevent any serious abuses, and it can only therefore repeat the representations made in the past, the substance of which is contained in a letter addressed to the Attorney-General on 24th July, 1907, on the occasion of the introduction of the Beer Bill. A copy of this letter is attached hereto for the information of your Commission.

The permission which was granted under section *forty-nine* of Ordinance No. 32 of 1902 to issue rations of kaffir beer, of which mining companies have availed themselves, is recognized as having had beneficial effects on the health of the labourers, and in 1904 the Chamber conveyed to the Government its opinion that the sale of that beverage to natives under direct control of the authorities might be permitted without injurious consequences.

Regarding the suppression of the illicit trade in liquor, I am directed to point out that this is a matter to be dealt with by the police rather than by further legislation.

I have the honour to be,
Sir,
Your obedient servant,

J. Cowie, Secretary.

TRANSVAAL CHAMBER OF MINES.

JOHANNESBURG,
24th July, 1907.

SIR,

I am directed by my Executive Committee to address you with regard to the Bill to provide for the sale of beer to coloured persons engaged in mining operations now before the Legislative Assembly.

My Committee desire me to express their regret that the Government, before introducing the Bill, did not see fit to consult this Chamber on a matter which so closely affects the mining industry, the more so as it has often formed the subject of communications from the Chamber to the Government in the past.

In 1891 the Chamber presented a memorial to the Volksraad in which it was set forth "that it is also highly desirable that your Honourable House should consider whether the sale of liquor to natives cannot be entirely prohibited throughout proclaimed goldfields".

A memorial presented in 1892 prayed "that the sale of liquor to natives within the mining area be totally prohibited, or else that stringent provisions be made for the restriction of this sale".

On 6th July, 1896, a special meeting of the Chamber telegraphed a resolution urging on the Second Volksraad "the immediate necessity for legislation by which the sale of intoxicating liquors to natives in the mining districts of the Witwatersrand and surrounding fields shall be totally prohibited"; and on the passage of the law of 1896 a letter was addressed to the Chairman of the First Raad thanking his House for the prohibition of the sale of liquor to natives.

In 1897 a memorial was presented to the Volksraad praying it "to uphold article *five* of Law No. 17 of 1896, prohibiting the sale or barter of strong liquor to natives".

In 1898 the State Attorney informed the Chamber that a Commission appointed by the Government had reported that "a moderate use of drink by natives, under the control of, or on behalf of, the Government and the mine managers, must in every way effect an improvement", and had suggested the establishment of a "Gothenburg" system. Thereupon the Chamber presented a memorial to the Volksraad praying it "to reject any proposal for the establishment of a State liquor monopoly, or any measure having for its object the revival of the sale of liquor to natives".

In 1899, in a letter addressed to the State Secretary, a "combined meeting, representing the Chamber of Mines, Chamber of Commerce, and Mine Managers' Association, again recorded its decided approval of the Liquor Law as it now stands, and is of opinion that prohibition is not only salutory for the natives in their own interests, but absolutely essential for the conservation of its labour".

In 1901, in a memorandum submitted to Lord Milner in connection with the proposal to include the mines within the Municipality of Johannesburg, the Chamber stated that "it is in the interest of the town as well as of the mines that prohibition of the supply of liquor to natives should be thoroughly effective".

In 1902 a suggestion having been made by some officials of the Native Affairs Department that kaffir beer should be allowed to natives as a preventive of scurvy, the Chamber stated that on principle it was "opposed to the supply of kaffir beer or any other intoxicant to the natives".

The Liquor Ordinance of 1902, however, contained provisions permitting the issue of kaffir beer as a free ration under certain circumstances by large employers of native labourers, and, acting on medical advice, many mining companies took advantage of this permission, with beneficial effects on the health of the natives.

This slight relaxation of the rule of total prohibition—carefully safeguarded as it was—having proved successful, this Chamber in 1904 submitted to the Government proposals "for a further extension of this principle in the direction of permitting the sale of kaffir beer to mine natives under strict Government control and within clearly defined limits—in fact, on the lines of the Gothenburg system". At the same time the Chamber submitted the rough outline of such a system.

It will be observed that this scheme proposed that only kaffir beer should be sold, and that under very severe restrictions, the seller, in particular, being precluded from having any interest in the sale. My Committee desire to point out that such a scheme differs very greatly from that of the Bill just introduced, which proposes to permit the sale of any kind of beer by any person to whom the Government may choose to grant permission. The Bill as it stands contains no definite provisions for regulating a trade which undoubtedly would offer great temptations to irregularity, and the matter is left in the hands of the Government with no indication of the lines on which such regulations are to be made.

The extracts quoted above serve to show that the Chamber of Mines, while for many years consistently advocating total prohibition, was not opposed on principle

to any scheme which would improve the condition of the natives without exposing them to the evils of the illicit liquor traffic.

The proposals for the free issue, and later for the sale of kaffir beer, were based on the arguments that this beverage was one to which the natives were accustomed in their homes, that it would make mining life more attractive to them, and that it would benefit their health by preventing scurvy. But it seems doubtful at present whether beer as manufactured for Europeans is either beneficial or attractive to natives, and, on the other hand, there is reason to fear that the sale of beer—except under a carefully devised scheme—might afford opportunities for the introduction of worse intoxicants, and moreover would strengthen the claims of manufacturers of wines and spirits to be allowed to sell their products on the mines.

I am therefore directed to submit for your earnest consideration the opinion of my Committee that the Government should, before introducing legislation, institute an inquiry to ascertain whether the sale of beer would either benefit the health of the natives or render mining life more attractive to them; and that, if the evidence on this point is satisfactory, the details of a scheme for adequate Government control and the prevention of abuses should be carefully prepared and embodied in any Bill that may be introduced. Meanwhile my Committee submit that the Bill in its present form should be withdrawn.

I have the honour, etc.,

J. Cowie, Secretary.

The Hon. the Attorney-General,
Pretoria.

Johannesburg Chamber of Trade (Incorporated).

City House, Harrison Street,
Johannesburg,
1st April, 1910.

Sir,

With further reference to your letter No. 670/09, dated 7th April, 1909, I now beg to confirm the decision which was communicated to you in June last year that the representatives of the Chamber of Trade will not proceed in the matter of tendering evidence before your Commission on the terms of reference embodied in Government Notice No. 979 of 1908, a copy of which was enclosed in your letter No. 45/08.

I have the honour to be,
Sir,
Your obedient servant,

E. C. Lowe, Secretary.

The Secretary,
Liquor Commission,
Room 97, Winchester House,
Johannesburg.

P.O. Box 134, Pretoria,
26th October, 1908.

Dear Sir,

As General Botha has most strongly urged the Transvaal Agricultural Union not to take any action in respect of the liquor question, I conclude that my Committee will not be able to comply with the request contained in your letter No. 45/08. It will, however, be brought to their notice at the next following meeting.

I am, yours faithfully,

Fred. T. Nicholson,
Secretary, Transvaal Agricultural Union.

OFFICE OF THE TRANSVAAL MEDICAL COUNCIL.

JOHANNESBURG,
20th March, 1909.

THE SECRETARY,
LIQUOR COMMISSION,
P.O. BOX 367, JOHANNESBURG.

SIR,

In reply to your letter No. 564/09 of the 11th instant, inquiring whether this Council would give evidence before your Commission with regard to the effect of alcohol on the human body, I am instructed to state that it is hardly the province of the Council, a purely administrative body, to give expert opinion on a subject of this nature.

I am to suggest that the Transvaal Medical Society would be the proper body to be approached for the information required.

I have the honour to be,
Sir,
Your obedient servant,

W. A. J. CAMERON, Secretary.

TRANSVAAL MEDICAL SOCIETY.

P.O. BOX 5039, JOHANNESBURG,
27th April, 1909.

THE SECRETARY,
LIQUOR COMMISSION.

SIR,

In reply to yours of 26th March, I am directed to inform you that my Society regret that they are unable, as a body, to lead evidence before your Commission on the subject of the effect of alcohol on the human body. Your letter has, however, been placed before a general meeting of my Society, and individual medical men may perhaps volunteer to appear as witnesses before your Commission. Failing this, I am directed to refer your Commission to some of the more recent medical works (notably that by Sir Victor Horsley), which deal exhaustively with the matter.

Yours truly,

E. P. BAUMANN, Hon. Secretary.

ANNEXURE No. 2.

RESTRICTIONS ON KAFFIR BEER (SUMMARIZED).

	Proclaimed Areas.	Durban.	Maritzburg.	Rest of Natal.
Natives in towns ..	Usually total prohibition.	Sale for consumption on premises only.	Sale for consumption on premises only, except on written permit from employer.	Usually total prohibition.
Natives in country ..	Manufacture for personal use allowed. Sale, supply, or gift prohibited.	—	—	Manufacture for personal use allowed. Sale prohibited.

	Transvaal.	Orange River Colony.	Cape Colony.	Native Territories.
Natives in towns ..	Total prohibition, except that employers of fifty may give.	Manufacture for personal use allowed; delivery or sale of kaffir beer containing more than 2 per cent. of proof spirit is prohibited; beer parties only by permit of resident magistrate, field cornet, or justice of the peace, on payment of £1 for licence.	Usually total prohibition.	Sale prohibited. Host at beer party is criminally responsible up to £5 fine for crimes of violence committed by his guests, and has to report to his headman his intention to hold a beer party.
Natives in country ..	Manufacture for personal use allowed. Sale prohibited.	Manufacture for personal use allowed; delivery or sale of kaffir beer containing more than 2 per cent. of proof spirit is prohibited; beer parties only by permit of resident magistrate, field cornet, or justice of the peace, on payment of £1 for licence.	Sale prohibited. Manufacture only by permission of owner of land.	—

RESTRICTIONS ON LIQUOR OTHER THAN KAFFIR BEER (SUMMARIZED).

	Transvaal and Orange River Colony.	Cape Colony.	Natal.	Native Territories and Proclaimed Areas.
Native non-voters ..	Total prohibition.	Vary with licensing courts; in some cases amount to total prohibition.	Total prohibition.	Total prohibition.
Native voters	Total prohibition.	No restrictions.	Total prohibition.	Total prohibition.
Coloured people	Total prohibition.	No restrictions.	No restrictions.	No restrictions, but there are very few coloured persons in native territories.
Indians	Total prohibition.	No restrictions.	Consumption on premises only.	Total prohibition.
Other Asiatics	Total prohibition.	No restrictions.	No restrictions.	Total prohibition.

ANNEXURE No. 3.

CHIEF MAGISTRATE'S REPORT ON THE WORKING OF THE MUNICIPAL KAFFIR BEERHOUSES AT DURBAN.

SECRETARY, NATIVE AFFAIRS.

His Excellency Sir Mathew Nathan some time ago required that after the Native Beer Act should have been in operation for a period of six months, a report on the working of the Act in Durban should be sent to him for his information. I have great pleasure in showing that the result of the working of the Act up to the 30th June, 1909, has, so far as the Borough of Durban is concerned, been undoubtedly for the benefit of the natives in the borough.

From January to October, 1907, the cases of native drunkenness reported in this division averaged 120 per month.

From November, 1907 (the traffic in hop beer having been stopped in the middle of the previous October), the average number of cases fell to 40 per month.

In January, 1908, the decisions of the Native High Court opened the door to what was practically free trade in native beer, and a large number of native beer dens having been opened in the borough, native drunkenness increased, and the average of cases from April, 1908, to December, 1908, rose to 65 per month.

In April, 1908, there were in existence 76 beer brewing establishments, employing 316 male and female natives; in October the number of establishments had increased to 112.

The Native Beer Act came into force on the 1st January, 1909, and the effect soon began to be apparent, and the average number of cases of native drunkenness reported during the months of March to June, 1909, inclusive, fell to 30 per month.

According to the census taken in March, 1909, the native population of Durban numbered 15,900 souls.

One of the chief reasons why I welcomed the Native Beer Act was because of the prohibition it contained with regard to native women bringing beer into the towns. In my annual report on native matters for 1908, I called attention to the way in which native women brought beer into the towns, and to the manner in which they were brought into contact with all kinds of vicious surroundings. I said:—

"Native women should not be allowed to bring in native beer as they do at present, and I am delighted to see that in the new Act a prohibition has been inserted. The number of native women coming in with beer, nominally to 'relatives', was increasing constantly. These women came into town under 'five-day' passes from the Durban Corporation; in the majority of cases they lodged under all sorts of unfavourable conditions, in 'ricksha sheds, back kitchens, compounds, and the like, under no adequate control. During the time they were in town they were provided by their male relatives and others with all kinds of luxuries, meat, sweets, sugar, etc. The demoralization of the women and girls was going on at a very great pace; the allurements of the town also were so great that as soon as a fresh brew could be made, women could come back again under any pretext that could be invented, and, in many instances, this resulted in women staying in town altogether and taking to a loose life. Last year 80,000 'five-day' passes were taken out by natives to visit the borough, and the Chief Constable informs me that it is quite safe to estimate that 40,000 of these were issued to native females".

On application to the Chief Constable I have been supplied with the figures showing the effect of the Act on the issue of native "five-day" passes. From the 1st January to the 30th June, 1908, there were issued 41,000 "five-day" passes; from the 1st January to 30th June, 1909, the number had fallen to 34,000, a decrease of 7000 over the corresponding period of the previous year.

I am satisfied that the prohibition will have a very good effect on the native women.

On the 25th day of May, 1909, the area contained within a radius of approximately five miles from the borough boundary was by Proclamation brought within the operation of the monopoly system under the Act. In this connection I trust I may be allowed to repeat what I said in my last report:—

"While I have welcomed the passing of the Native Beer Act as a step in the right direction, it will not effect its purposes unless accompanied by a vigorous police administration in the divisions immediately outside the borough boundaries. In my evidence before the Native Affairs Commission (1906-07), I pointed out that: 'Outside the borough boundaries we have a dense Indian and native population which, by reason of the small police force in those districts, is not under sufficient control'. The same state of things applies to-day. Murders and crimes of violence which have taken place in the districts named have borne out the correctness of the statement which I then made. It is no use keeping up a

strict police supervision within the borough if you have an 'Alsatia' just over the boundary. I have said before, and I say again, that you want, not only an increased police force in these suburban districts, but you want a more numerous, and better paid, detective force".

A recent inspection made by me of the three municipal eating-houses in the borough where native beer is sold has satisfied me that the working is being carried out on the right lines, the brewing of the native beer is being carried on under proper control, constant analyses are made of the beer to ensure that the quantity of alcohol is kept down to the proper limit, and the sale of the beer takes place under the direct supervision of municipal officers, whose remuneration is not dependent upon the volume of beer sold.

From the 1st January to the 30th June, 1909, the gross receipts for the sale of native beer at the municipal eating-houses amounted to the sum of £3342. 5s., made up thus:—

January	£33	18	6
February	229	13	9
March	548	6	9
April	668	17	6
May	873	13	3
June	987	15	3
	£3342	5	0

Up to the 7th July, 1909, there were 175 convictions for contraventions of the Beer Act.

Now that the Act has been sufficiently long in force to have proved its value, at any rate so far as the Borough of Durban is concerned, I look forward to the Durban Corporation gradually obtaining the entire monopoly of the native eating-house business in Durban. I understand from the Chief Constable that it is the intention of the Corporation to open fresh eating-houses in other parts of the borough in the immediate future.

I have always advocated municipal control with regard to the supply of food and beer to the natives for two reasons—

First: The quality and price of provisions and liquor will be under the direct supervision of municipal officers.

Second: The people who at the present time are engaged in supplying the wants of the native are not of such a class as to exercise the best influence on the native.

I look forward to the time when the issue of licences to private individuals for native eating-houses will be a thing of the past.

The Chief Constable of Durban has entered very enthusiastically into the whole working of these municipal beerhouses, and is doing everything to make them a success.

PERCY BINNS,
Chief Magistrate, Durban.

27th September, 1909.

DISTRICT NATIVE COMMISSIONER'S OFFICE,
DURBAN, 20th November, 1909.

SIR,

I have the honour to report that, on the 13th instant, I made an inspection of the Durban Corporation Native Beer Brewery and places for the sale of the same, established under Act 23, 1908. I was accompanied on my inspection by Chief Constable Donovan, of the Durban Borough Police. In conjunction with the beer-shops there are native eating-houses.

I was much impressed and pleased with all I saw, and consider that the work done by the Durban Municipality in regard to these establishments amply justifies the passing of the Act. From information obtained, I am able to say that the diminution of crime in the borough, due to this regulation of the native beer traffic, has been nothing short of phenomenal, not to mention the great difference it has made in supplying good food and comforts to natives working in the town.

The beer, food, and other comforts supplied are such as, in my opinion, to considerably influence for the better the native labour supply of the borough.

I have, etc.,

JOHN S. KNIGHT,
District Native Commissioner, Durban.

ANNEXURE No. 4.

EXTRACTS FROM THE REPORT OF DR. SERRAO DE AZEVEDO ON THE HEALTH SERVICES OF THE PROVINCE OF MOZAMBIQUE.

It is to be wondered at, considering that alcoholism is one of the most powerful elements of the growing decadence of the native races, that only two cases of alcoholic intoxication figure on the hospital returns, one of them referring to a European.

It is, however, only exceptionally that there is brought to the hospital any native found lying in the streets in a state of alcoholic coma and apparently moribund condition. It is in the police cells that disturbers of the public peace get rid of the fumes of their debauch, while the others—who form the majority—either indulge in their drinking bouts outside the range of authority's eye or are particularly quiet in their cups.

To drink is the supreme aspiration of almost every native. The civilization of Europe, which recognizes this failing, aids him upon the downward path, surrounding him (both in the towns and in the interior) with canteens without number where the inextinguishable thirst for alcohol may be nourished, ever becoming more burning and more deadly.

Formerly the native manufactured his own fermented drinks, making use of all vegetable fermentation, and satisfying the vice of intoxication with draughts of *sura* (palm wine), *chimbulau* (juice of the caju), *sope* (cane juice), etc., and sometimes, but less frequently, of liquors resulting from the fermentation of these concoctions. These natural resources are even now exploited by natives in many regions of the Province, but the *vinho colonial* (kaffir wine) is little by little, from the south to the north, driving out all local products of a similar nature and creating the vexatious position of fostering, in a fast increasing degree, the vice of alcoholism, encouraging it by drinks more hurtful than native potions, while at the same time seriously prejudicing the economical interests of the Province.

The aboriginal population of Mozambique is suffering from the effects of powerful causes of degeneration and annihilation.

Leprosy, syphilis, tuberculosis, emigration, and alcoholism are the principal ones. But the last-named surpasses all the others in intensity and gravity.

It is evident that it would be utopian to expect the immediate regeneration of the native by inoculating him with habits of healthy sobriety; but the force of influence, always growing, which we exercise over him—combined with a firm intention to reinvigorate his race, strengthening him and adapting him to labour, educating him, protecting him, gradually rendering more difficult the abuse of hurtful beverages—will certainly succeed, within a longer or shorter space of time, in transforming his economic or physical existence.

What we are doing, however, is precisely the contrary.

There can be no two opinions in this respect.

Either a stop must be put to this unbridled rush of the native to the canteen, or before long all the vital energies of the population will be exhausted.

No reasons of an economic nature imposed by Lisbon should receive any attention in view of so alarming a situation, for the right of this Province to defend itself and its bounden duty to afford protection to the native rise above all other considerations.

These are not the ideas of course of those who, in Lisbon and here, fatten under the shelter of the exploitation of this base vice, which is gradually dragging down the sturdy peoples of this Province towards the degeneration of all their vital energies.

Thus it is that private interests are opposed to all that is most desirable in the public interest; it is left to those who follow after us to close the door.

In the city of Lourenço Marques there are 1032 establishments where alcoholic liquors are sold, and in the five former circumscriptions of the district a further 1379, or a total of 2411, in the area of the old district of Lourenço Marques.

During the year 1907 the importation of colonial wine (of 15 to 17 degrees strength) in the whole of the Province amounted to 5,257,172 litres, which quantity was consumed almost exclusively in the area of the old district of Lourenço Marques and Gaza.

To Lourenço Marques come natives from all parts of the Province to engage in occupations of a most diverse nature—domestic service, work on the railway or public works, loading and discharging the cargoes of ships, pulling 'rickshas, and many others which it is unnecessary to enumerate.

Many of these services are of a violent nature, and, although rewarded with a higher remuneration than necessary, involve a great expenditure of forces, since the native in the ordinary way does not spend the money which he receives in providing himself with nourishment, clothing, or any hygienic comfort, but squanders it in the canteen, where he intoxicates himself until he falls prostrate. In these miserable social conditions it is not difficult to suppose that tuberculosis

finds ground well suited for implanting and propagating itself. Alcoholism on one side, fatiguing labour on the other, and still—in addition to those two important factors—defective nourishment and but rudimentary shelter, where intimacy with tuberculous patients is easy, afford all the conditions favourable for the transmission of the infectious agent.

If the struggle against tuberculosis encounters almost insuperable difficulties in civilized countries, how much greater are the obstacles to be overcome amongst ignorant people in the special conditions in which the native races of this Province are situated?

Should we establish native sanatoriums? Where are the means of doing so?

The temperament of the native is not suitable for these cures; it would be necessary to keep them entirely apart, and even if this were done I do not know what the result would be.

Should we give them nourishment, medicines, etc., to combat the diseases which are undermining them? It would be necessary to keep constantly behind them, to drag them forcibly to the dispensaries, for of their own accord but few would come to ask assistance.

And what would be the result obtained? An insignificant one it is certain, for many reasons, and because, above all, the native has an insatiable thirst for alcohol which civilized colonists urge him to buy, and for which generous friends are always ready to pay when one or other has not the necessary money.

In the south of the Province, principally, the native has not the slightest chance of escaping the deadly influence of the canteen, which constitutes the most pernicious agent of physical and moral depravation of all those which Lisbon has exported to the Colonies.

They are in hundreds, even in thousands, these filthy taverns, which spring up wherever there is a possible chance of poisoning the native. But the canteen-keepers are not yet satisfied, and it may not be uninteresting to reproduce here a passage from the *Commercio de Gaza*, a newspaper published at Chai-Chai, a wine-selling centre of great importance, a passage which occurs in a "Letter from the Interior", published in the seventh issue of the paper on 16th August last.

This is the select quotation which I have taken from this characteristic letter—to canteen-keeping friends:—

"No one connected with business here but knows that it was in changing currency that some profit was made; the native had to pay half a sovereign to the State and 200 reis to the Camara for the hut-tax.

"For this it was necessary to change 'gold boys' to obtain small change, and with this in view the native set out for the nearest canteen where he changed his gold and indulged in a joyful carouse. Thus the merchant made a double profit—a few hundred reis in changing the gold and the percentage on what he sold.

"Simple and honest business this, as I shall not fail to prove in future letters if you will allow me.

"But now? Now! Now the general experience is the same as my own; we pass days and days scratching ourselves without selling a single litre of this 'most pure juice of the grape'."

It would be difficult to find a more authoritative opinion, or one which more typically defines the nature of the "simple and honest" relations which exist between the natives and the canteen-keeper.

In face of this spontaneous and sincere confession one does not know which is more to be admired—the honesty and simplicity of the business or the courage which makes a public profession of faith of so elevated a comprehension of civic duty!

These are the workers of pacific civilization with whom the native is confronted on all sides, for whose tranquility and prosperity our soldiers have fought and our country has made heavy sacrifices of lives and money.

Still the problem is not an insuperable one, but it requires to be attacked with energy and perseverance.

The campaign against tuberculosis must be indirect if it is to produce useful results. The restriction of alcoholism, the regulation of native labour, and the protection of the black against being taken advantage of by the white man are the principal weapons which the State will need to take up to efficiently check the devastating current which is impetuously dragging the vitality of the population of the Province towards complete ruin. . . .

(Note from Dr. Ferreira dos Santos, Health Officer at Chai-Chai.)

In view of the proportion between the natives registered as tuberculous on their arrival on the Rand (22 in 32,682) and those who die there in hospitals (63 out of 187 post-mortems), without speaking of those who return infected, it would seem at the first glance as though the only interpretation to be given of the etiology of the spread of tuberculosis amongst the natives of Gaza would lie in the conditions and mode of life of these same natives during their period of labour in the mines of the Transvaal.

This is not my opinion.

The natives in whom tuberculosis manifests itself on the Rand are either tuberculous when they leave home, or in such a state of organic degeneration that their organism is rendered more liable to contract this disease, the contributing cause being, amongst various others, inherent to their habits and modes of life, alcoholism . . .

Alcohol, carefully disguised in a beverage called "colonial white wine", and freely and copiously distributed to the natives of Gaza, not only predisposes the individual who imbibes it to tuberculosis, but has a still greater influence on the descendant begotten by the drunkard.

The native lives with a constant desire to get drunk, and here we have the explanation of the flourishing trade in colonial wine which is carried on in an incalculable number of canteens scattered over the whole interior, where the 4,000,000 litres which are landed at Chai-Chai each year are consumed.

(Note from Dr. Mosquita Portugal, Health Officer at Inhambane.)

Native emigration, whether good or bad for the economic future of the district, which it is not my place to discuss, cannot in my opinion be honestly accused as a cause of the increase in mortality through tuberculosis to the point of being condemned as such without other confirmation.

Many of the deaths which have occurred throughout this district, and have been attributed to tuberculosis merely because the native expectorated blood, should be charged to the immoderate use which the native makes of alcohol and other intoxicating beverages which some of their cronies make and sell to them.

Now, the native when he drinks does so until he falls, as a result of which he passes nights exposed to the dew and afterwards appears with internal pains and spitting blood. Then follow congestion of the lungs and hæmorrhages, pneumonia, and, later on, fatty degeneration of the heart and other organic lesions of this member, nephrites, etc., all of which may be the origin of the hemoptyses, which are always carelessly attributed to tuberculosis.

EXTRACTS FROM THE REPORT FOR 1906-07 OF SNR. AUGUSTO CARDOZO, GOVERNOR OF THE DISTRICT OF INHAMBANE.

The question of taxation leads me at the very first page of this report to speak of a matter of the utmost importance to this district—the regulations regarding native drinks. I may say forthwith that the prohibition of the consumption of alcohol is a measure of public utility against which no one should protest; but it is not so with the prohibition of the use of simple fermented drinks of native manufacture, not only because their use does not involve the degeneration of the native race but also because it is impossible—at all events for many years to come—to hinder the native from imbibing these drinks.

I say it is impossible because, in order to do it successfully, it would require an expenditure out of all proportion to the result in view, and because measures of violent repression would very probably cause a diminution in the population of the district.

It is very doubtful whether it is possible to obtain from the native a sobriety which is not to be found in civilized men. The idea of preventing the native from inebriating himself is as great an utopia as to prevent France from taking her regular and daily absinth.

There is no doubt that the native of Inhambane must drink, and something other than the wine which is manufactured for him in Portugal, and it therefore appears advisable to me, since prohibition cannot possibly be made effective, to tax the use of the juice of the *caju* and of *sura* (palm wine), imposing a tax of a licence of reis 2000 for each village or group of four huts where the *caju* fruit is crushed, and a tax of reis 1500 for each palm tree used for the drawing of *sura*. . . .

I consider it indispensable to find some means of bringing into general circulation the earnings of the native and the values which he yearly imports from the Transvaal, in order that the population settled here may profit thereby, as otherwise the latter will be unable to support themselves.

Formerly there existed a magnificent means of transferring these riches from the hands of the natives into those of the community in general, and this was the manufacture and sale of fermented kaffir drinks. In those days Europeans and Asiatics prospered and agriculture progressed, for the native who returned from the Transvaal soon spent his savings to satisfy his craving for drink, and at once sought work again either in the district or in the Transvaal in order to obtain the wherewithal for further indulgence. In this way there was an abundance of cheap labour available for agriculture, and the economical life of the district was obtaining great development, as is testified by the fact that in 1900 the industrial contributions rose to over £19,000, a figure which has never since been approached. But this splendid agent of circulating money was nullified by the law which prohibited the manufacture and use of fermented liquors, a law which was

promulgated with the view of protecting the wine industry at home. Without again detailing the results of the law, of which I informed His Excellency the Governor-General fully at the end of 1906, it may be mentioned that in the very first year after the law came into force the industrial contributions dropped from £19,000 to under £7000, and have never since risen to above the latter total. These figures are sufficient to show clearly how great was the economical *debacle* in the district as a consequence of the legislation referred to, and to give some idea of the distress which has prevailed in this district during the last six years. It should be noted that this law did not cause a similar upheaval in the finances of Lourenço Marques and Gaza, since the consumption of wine there has risen to nearly a quarter of a million sterling; but while that has happened there, in Inhambane the imports of the same wine have never exceeded—nor are likely to exceed—£16,000 to £18,000. It may be safely concluded that our native has a special dislike for colonial wine, which renders it necessary to discover some other substitute for the kaffir fermented drinks, seeing that the revoking of the law prohibiting the latter seems quite impossible.

Let the wine growers invent some drink for the Inhambane native or let us return boldly to the use of the syrup of the cane and the palm juice. Theorists advise the creation of necessities which will make the native work and also spend his wages, but they do not explain how such necessities are to be created. In order to assist local commerce to some extent and to draw into the hands of Europeans some of the wealth possessed by the native, I ordered that all natives of both sexes should be obliged to wear clothes, and this resulted in the whole of the local stock of calico being exhausted, while more than twenty tailors' licences were taken out in the interior. But this did not affect more than 1 per cent. of the kaffir's hoardings, nor could these be brought into circulation even if every native were obliged to wear patent-leather boots and a top hat.

Even supposing the native were to acquire the need for a wardrobe, for nourishing food, domestic comforts, with the refinements of furniture, etc., would this tend to lower his wages or keep them on a level with agricultural needs? Certainly not; and therefore it is not by increasing the wants of the kaffir that the fundamental problem of the labour supply can be solved. The increase in the native's needs must inevitably lead to an increase in his wages, and so such a measure would be nugatory.

We must either abandon all hope of converting Inhambane into an agricultural country with exports of importance, or we must solve this great problem of the supply of labour, to do which it will be necessary to revise the regulations of emigration and the laws regarding kaffir drinks.

In the event of the first happening, Inhambane will remain for an indefinite time just as it is now, a nursery for kaffirs for the sole benefits of the Transvaal, which I may remark is scarcely flattering, and is even disparaging to us. In the second case, it will be necessary to at once nominate a commission to deal with the matter in its many phases and relations to other questions.

EXTRACTS FROM THE REPORT OF DR. AUGUSTO DA CUNHA ROLLA ON "THE PRINCIPAL DISEASES OF THE NATIVE IN THE DISTRICTS OF LOURENCO MARQUES AND INHAMBANE, AND OTHER CAUSES WHICH CONTRIBUTE TO THE DECREASE OR DWINDLING IN NUMBERS OF THE POPULATION OF THE DISTRICTS REFERRED TO".

Alcoholism.—This is without doubt one of the worst scourges of modern times, and one which threatens in most alarming fashion the extinction or degeneration of all races—in all latitudes, in all climates, whatever their situation and age.

In the civilized countries where the grave and pernicious results of the abuse of alcoholic beverages is recognized there has been in operation, especially during the last twenty years, a powerful social and scientific movement which by means of printed publications, public conferences, the formation of temperance societies, promulgation of repressive legislation, etc., has sought to combat the evil; and these are not being relaxed, since to do so, in view of its great sociological interest, would be to retrograde, whereas the natural tendency of all peoples is to pursue the path of progress and improvement.

In Africa, where this vice is to be found at its worst—and, be it remarked, amongst all classes, although especially in the native, with whom we are chiefly concerned—it is of urgent necessity that energetic and unhalting attention be devoted to the matter in order to avoid the disappearance or annihilation of the race, which may be looked for, in my opinion, within a future more or less remote.

To-day it may be affirmed without fear of contradiction that alcohol constitutes the principal evil of the native, not only because it is the producing or determining cause of the bulk of his diseases, as has already been pointed out in this report, but also because it is the factor which most conduces to his degeneration.

The truth of this, which is known to many, does not seem to me to stand in need of demonstration; but even so I will admit the possibility of the existence of some incredulous persons, and would recommend any such to take a trip into the interior, preferably through M'Chopes (Gazaland) or Inhambane, where they may see for themselves the number of stills—rudimentary though they are—for distilling and fermenting native drinks, as well as the numberless canteens which exist for the sale of the imported product denominated native wine.

Any one who arrives by this convincing means at a proper appreciation of the number of stills for the production and canteens for the sale of alcoholic liquors, and there being no doubt that not only the product of the stills but also the liquor stored in the canteens is to be consumed by the natives almost *in toto*—I say "almost" because, unhappily for the white race, there are some of its members who assist in the consumption—cannot fail to believe in the general alcoholization of the native. But should this not prove sufficient I will further state that it has happened to me—and I am certain it will happen to all others who undertake similar visits of inquiry—to arrive at a village at 8 or 9 o'clock in the morning and find the whole of the inhabitants (old, young, and children) in a state of complete inebriation.

Once agreed then that every native is a drunkard—in old age, in youth, and in childhood (save those exceptions which merely prove the rule), some owing to immoderate indulgence in alcoholic liquors, others while still children owing to the alcoholized milk of their mothers—it needs no great intellectual effort and no deep or complicated knowledge to foresee the future which awaits such a race—degeneration or extinction, which are equivalent terms, considered sociologically.

Having thus reviewed and placed in evidence the gravity and widespread nature of alcoholism amongst the natives, and as it does not fall within the scope of this report to indicate the remedies to be applied, since these are not to be found in the dispensary, I shall limit myself to drawing up a list of the drinks most used, accompanied by my opinion as to the degree of organic hurtfulness of each one.

The native consumes various beverages of different alcoholic graduation, and coming from two sources; some being manufactured in the Province of indigenous or cultivated produces, others imported from Europe.

Those manufactured in the Province may again be sub-divided into those made by natives and those made by whites, blacks, or mulattos, who thus pursue an agricultural-industrial life.

For the sake of simplicity I will classify all these beverages into two groups:—

(1) Native beverages, properly so-called, or beverages manufactured only by the native and for his own consumption.

(2) Beverages manufactured by Europeans, mulattos, or by any one else in the Province or in Europe for consumption by the African native.

The first group comprises beverages made from mealies, kaffir corn, pineapple, caju, orange, m'curre, huimbe, ocanha, insala, chan jala, sugar-cane, mandioca, banana, potato, sweet potato, and the liquor extracted from the palm-tree, and known by the name of sura or palm wine.

In the second group are comprised the liquor extracted from the palm-tree (sura), that made from sugar-cane (sope), and the wines imported under the designation "for natives" or "colonial".

The beverages included in the first group may be either fermented, when they produce a species of beer or wine, or distilled, in which case they produce spirits.

Of all these beverages those produced by fermentation are the most inoffensive, owing to their weak alcoholic graduation, and amongst these again those of the type of beer or manufactured from cereals, there being indeed amongst them one, to which the natives give the name of "puto", whose alimentary properties—seeing that it is but a mixture of water and flour just beginning to ferment—may be of some utility.

The wines must be of different alcoholic strength in accordance with the source from which they are produced, but I was unable to obtain details of the various graduations owing to my investigations not having been made during the time of fruit bearing, which is of course the time of manufacture. I think, however, that we shall not go far wrong if we take the liquids made from pine-apple, orange, and caju as containing the greatest degree of alcohol.

The distilled liquors or spirits, which in a general way are obtained by the alcoholic fermentation of vegetable substances containing sugar (pineapple, sugar-cane, huimbe, caju, etc.), or of feculas rendered fermentable (sweet potato, mandioca, rice, mealies), are all very hurtful, not only on account of their alcoholic strength, as from the alcohol (called superior) of bad quality which they contain, such as propylic, amylic, butylic, alcohol, etc.

The most harmful of all, and the one which is manufactured on the largest scale, must be the mandioca liquor, owing to the quantity of aldehyldic substances which it contains.

The beverages of the second group may either be fermented or distilled, but as it is not known or believed that any one troubles to distill them, I shall only deal with them as fermented.

The sura or palm wine is the sap of the palm-tree used as a beverage, in "must" or fermented and extracted by incision in the trunk close to the last shoot or at the base of the floral cluster. It is an agreeable beverage, slightly sparkling, very like the white wine of the grape, which can be collected all through the year, although more abundant during the rainy season.

It is of slight alcoholic strength, and for all these reasons is much to be recommended. It might indeed take the place of white wine with Europeans; if not with advantage, at least with no loss.

The sope is the juice of sugar-cane, used like sura in "must" or fermented, which is obtained by squeezing the cane, generally in a special apparatus (trapiche).

It is a beverage of which the alcoholic strength, although varying, can never in my opinion exceed 10 degrees. It contains no harmful substances other than alcohol, nor does it possess any disagreeable organoliptical properties. It is therefore, like sura, a beverage which, properly prepared, might with advantage take the place of imported wine—with the native at least.

Colonial or kaffir wine is a wine manufactured in Lisbon and exported, expressly, for exclusive consumption by natives. It appears on the market for sale in barrels or in bottles, the latter bearing port wine labels, the wine in the bottles appearing to be the same as that in the barrels, save for an increase of 3 or 4 degrees in alcoholic graduation.

The percentage of alcohol in the wine in casks may safely be calculated at not less than 17 per cent., and of the wine bottled at 20 per cent., which represents a percentage higher than that of any of the natural wines of the country used for consumption, with the exception of those called "fine" or "generous" wines, so that this alcoholic strength can only be obtained artificially; and if this is done by means of alcohols called "superior" or from cereals, which contain toxic alcohol, it is so much the more prejudicial to health. Wines of this nature have already been branded as impure mixtures, even in official reports, and are also considered unfit for consumption by some authorities on health. In the laboratory of the Camara Municipal of Lourenço Marques are to be seen more than a hundred analyses of samples of these wines obtained from different canteens which, in most cases, declare them to be suspicious or adulterated.

These analyses do not, however, explain the nature of the substances employed in the falsification or adulteration, so that nothing can be ascertained as to their effect on the human organism, but it is not the most wholesome. In any case, whether their nature be offensive or inoffensive, the existence of a high alcoholic graduation, which is unnatural, is enough of itself to condemn the wines. To go further, one cannot understand this distinction between wine for blacks and for whites, as there is nothing to justify it. It would be quite comprehensible that Portugal, at times embarrassed with an excessive production of wine, should endeavour to introduce it in its usual form amongst the natives of the Colonies so as to assist in the solution of the crises of over-production in the wine trade with which the country has at times to struggle. But to invent a more or less artificial product with an alcoholic strength twice or three times that of similar drinks which the native himself brews at home, or which others manufacture and supply to him, with the advantage of assisting the agricultural and industrial development of the Province, is almost beyond comprehension; and yet that is what has been done.

I consider this product more harmful than any of the fermented drinks made in the Province on account of its alcoholic graduation, and I have no hesitation in recommending that its consumption should be stopped for the benefit both of the native and the colonist. All the more so, considering that the first step in the solution of the great and difficult problem of native alcoholism must be by selection of the drinks to be consumed, a selection which must fall on those least harmful in alcoholic strength or other elements which they contain.

EXTRACT FROM THE REPORT OF THE ADMINISTRATOR OF THE MANHICA CIRCUMSCRIPTION.

Those who consider vice as the last word of civilization should consider themselves happy in examining these centres of commerce of the interior, where the devotees of Bacchus pass their days around his temples, which here take the shape of a small galvanized iron shanty, with a counter and a barrel of wine, and in the background the emaciated figure of a Portuguese or Asiatic with flagon in hand to encourage the believers.

Here sacrifice is made to the god of the last farthing and such credit as the priest is disposed to accord to good customers. Outside the temple there is animated conversation, and passers-by are filled with awe and admiration at the beatific appearance of one or other devotee to whom Bachus has been particularly kind.

The greatest believers are the men, but the women also do not despise the cult, and it is their grief that they are not able to accord the same veneration to the god as their worthy husbands.

This commerce is hurtful to the natives, to civilization, and even to the trader himself, for owing to competition the profit which he draws is insignificant.

It is hurtful to the native because all the money that he can lay hands on is expended in wine; and it must not be thought that this is any small sum, since this circumscription consumes at least fifty million reis worth (about £10,000) of so-called colonial wine per annum.

Storekeepers established here always complain of the lack of business, but on closing accounts at the end of last year, which was one of the worst, a Banyan had sold £4000 of goods.

This circumscription contains forty wood and iron buildings (thirty-four of them being located in eight villages where trading is done and six scattered about the bush), where the principal article of sale is wine.

The money which the native hands over to local storekeepers each year is more than £20,000.

This is astounding, if we consider that the native works very little and that his expenses are insignificant.

What might not this circumscription realize with a better business policy—selling less to the native and buying more from him?

ANNEXURE No. 5.

EXTRACT OF REPORT FURNISHED BY Mr. J. W. HONEY (DIRECTOR OF CUSTOMS) TO THE TREASURY.

Mr. Honey was commissioned

(1) to collect information respecting Government control of the distillation and sale of spirits, and generally with regard to State control of liquor and other kindred subjects; and

(2) to investigate the question of uniform customs or excise tariffs in their application to British Colonies or other countries within a Union or Confederation.

After leaving Paris I proceeded to Scandinavia to inquire into the Gothenburg system which is generally in force in Norway and Sweden. The system, its merits and defects, and its results, have been very fully dealt with by Messrs. Rowntree and Sherwell in their book "The Temperance Problem and Social Reform", a later publication by the same gentleman on the public control of the liquor traffic; a report by Dr. Gould, of Washington, "The Gothenburg System of Liquor Traffic"; a report by Messrs. Hogge and Scott, "Licensing in Scandinavia"; a report on the Liquor Licensing Laws of Norway issued by the Scottish Temperance Legislation Board, and it is unnecessary for me to go into the details of this system with these authorities to refer to, considering that they spent months in inquiring fully into the matter, whereas my investigations only occupied a few days, and I will therefore confine myself to simply stating a few of my impressions. The system on the whole appears to have met with the approval of the above gentlemen, but some of their conclusions must, I think, be accepted *cum grano salis*, as there was no doubt a desire on the part of some of them to prove its success. Although not entirely agreeing with him, I think Dr. Gould fairly sums up the cases when he states "that the system is perfect no one will be sanguine enough to maintain, but that it represents the best means which have yet been devised for the control of the liquor traffic where licensing is permitted at all, few who understand its true character and have studied its operations will be bold enough to deny".

The essential feature of the Gothenburg system of liquor selling is the elimination of the stimulus of private profit in pushing retail sales. A company is formed who provide the capital required to carry on the retail business of liquor, and the profits drawn by the shareholders is limited to 5 per cent. in Sweden and 6 per cent. in Norway. In the case of the former country the bulk of the profits go to the municipalities; in the latter country 65 per cent. goes to the State, 15 per cent to the municipality in lieu of large licence duties abolished, and 20 per cent. to certain objects of public utility. The tendency, however, in Sweden is to follow the Norwegian practice, it being held by many that the profits derived from the system which are applied to the reduction of rates is an incentive to the municipalities to encourage the sale of liquor. The customs and excise duties on liquor in Sweden and Norway are, comparatively speaking, low, and if revenue were the sole object aimed at, which is not the case, it could be procured more easily by raising such duties. Since the introduction of the system, the consumption of spirits has largely decreased in both these countries,

in Sweden from 3.06 gallons in 1874 per head of population to 1.65 in 1903; in Norway from 1.47 in 1876 to 0.7 in 1903. This decrease has, however, been accompanied by a large increase, particularly in Sweden, in the consumption of wines and beer which, it must not be forgotten, do not fall under the system, which applies to spirits only, there being practically free trade in these articles. This is a most important point often overlooked when considering the system. Many of the supporters of the system do not claim the whole merits for it, and are ready to admit that other factors, such as the temperance movement, education, etc., have tended towards the reduction of the consumption of spirits, and this is borne out by the fact that in other countries, such as Denmark, the United Kingdom, Belgium, Holland, and the United States, in which the system is not in force, the consumption of spirits has also decreased of late years, but not, however, to the same extent.

The exclusion from the system of light wines and beer is, in my opinion, one of the great factors in the success of the movement, and although this view is not held by some of the temperance party, a great section of that body and of the people who are in favour of the restriction of the sale of spirits think it would be unwise to extend it to wines and beer, particularly the latter, as a reaction of opinion might set in, which would undo a great deal of the good results which have been attained. They maintain that the outlet which is afforded by the consumption of wines and beer has made possible the restrictions in the towns and in the rural districts the prohibition of the sale of spirits. There appears to be good ground for belief that crimes and diseases caused by the consumption of alcohol have sensibly decreased since the adoption of the system.

It has not been found possible to adopt prohibition in any of the large towns, prohibition being confined almost entirely to the smaller towns and to the rural districts, with the result that a considerable amount of alcohol is imported from non-prohibiting to prohibiting areas. The proper working of the system is also weakened by the number of old private licences which are still in existence, principally for the sale of spirits in retail quantities in bottle for consumption off the premises.

Throughout Sweden and Norway the small distiller has been eliminated, and all production of spirits is in the hands of large people and under strict Government supervision. Although no doubt in some of the far-off districts there is still a small amount of illicit distillation, the policy adopted has done much to decrease the consumption of spirits, particularly in the rural districts. I next proceeded to Denmark where the ordinary licensing system is in force. The licences vary according to the different cities, etc., and are divided between the State and the communes. I did not see more drunkenness in Copenhagen than in Christiana and Stockholm, but the consumption of spirits in Denmark is far greater than in Sweden and Norway. Every licensed house must supply food as well as drink, and licences once granted are not taken away except for bad behaviour. There is no Sunday closing, and the ordinary closing hours are 12 p.m., but certain restaurants of the better class are licensed, upon payment of an extra amount, to keep open until 1 or 2 o'clock a.m.

Compared to ours, the customs and excise duties are low in spirits. As in Sweden and Norway, the small distiller has been practically eliminated, with most excellent results.

From Copenhagen I proceeded to Berlin. In that city, I understand, the number of public-houses are practically unrestricted. They do not appear, however, to be too numerous. No licence is charged, but the applicant must satisfy the authorities that the premises are suitable, airy, commodious, and sanitary, and a strict supervision is kept over the management of public-houses and the quality of drink sold. Food and non-intoxicants are also invariably supplied. The public-houses appear to be extraordinarily well conducted, and I saw no intoxication, but Germany is one of the countries in which the consumption of spirits is on the increase. As with other trades, an income tax is levied on the profits of the business. In towns containing a population of 15,000, or under, the number of public-houses is regulated from time to time. Customs and excise duties are comparatively low and are uniform throughout the Empire, with one trifling exception, where a different excise on beer is imposed in one of the kingdoms than in the rest of the Empire. The bulk of spirits produced in Germany is distilled in large establishments under strict Government supervision, and its production and sale wholesale is regulated by a spirit trust. A very large number of small agricultural distillers exist, however. They are not looked upon with favour by the Treasury officials who cannot exercise such supervision over them as to effectually safeguard the revenue. Further, they distil a very crude spirit, and besides drinking it themselves, corrupt their servants. In this respect the policy of Germany is far behind that of Scandinavia, but the agricultural distiller is a strong political factor in the former country, and in this respect is not ignored.

From Berlin I returned to Paris. The licensing system is in force in France, the amount payable for licences varying very considerably throughout the country according to population. The public-houses are well conducted, wine being the

chief drink, and of intoxication I saw none, even in the lower class wine shops. The absinth drinker and confirmed drunkard are there, but were not visible.

The consumption of spirits has increased in France of late years, principally, I am told, in the rural districts, owing to the cheapness of wine and the facility given to the agricultural distiller who is as much if not a greater curse in France as he is in Germany. The consumption of spirits in France is lower than that in Sweden, Holland, Germany, and Austria, but on the other hand the consumption of wine is very heavy. The customs and excise duties are comparatively low.

In the United States of America the laws and regulations are State and not Federal, and vary very considerably, the licensing system, the dispensary system, and total prohibition being in force in various forms throughout the country. It was quite impossible, with the limited time at my disposal, to go fully into this matter, but I inquired into the general effect of the sale of liquor at Washington and into the system which is in force in New York. A licence for the sale of liquor is imposed by the National Treasury of 100 dollars for quantities of 5 gallons or more, and 25 dollars for sales in quantities of less than 5 gallons which includes bottle stores and bar trade. Beyond this, the National Government, except in respect to the collection of the excise duties, do not interfere with the State laws and regulations in respect to the sale of spirits.

In the city of New York, which is under the licensing system, the amount of the State licences is 800 dollars per annum, and they are granted by a State Commissioner of Excise appointed by the Governor of the State. There are apparently very few difficulties in getting a licence, the amount payable and competition keeping down the number of public-houses. It is stated, however, that the high licences have resulted in the closing of many of the small beer-halls, which are considered by many to be the least objectionable form of public-house. I visited public-houses of all sorts in New York, from high-class bars down to negro canteens in the lower parts of the city, and drunkenness appeared rare. The negroes were chiefly drinking beer, and evidently were not abusing the use of it. A very rigid Sunday closing law is on the statute books of the State of New York, but in the city it is practically ignored, it being very easy to get a drink at any time on Sundays on the pretext of having a meal, which may consist of a stale biscuit and cheese, or a hard-boiled egg, not necessarily consumed—only placed before you and served up to the next customer. A barman, in giving evidence before a commission, stated that he sold a hard-boiled egg sixty-five times over during the course of one Sunday morning. No special legislation exists for the supply of liquor to coloured persons, as, theoretically, all men are equal in the States, but prohibition prevails to a great extent in the Southern States, some twenty-five million people being under prohibition in the South, where most of the negroes live, and no doubt, despite the defects of the prohibition principle owing to lack of uniformity of legislation it must make it difficult for the black man to procure liquor, and prohibition is therefore popular in the States occupied by him. Although prohibition is legally in force in many of the States, it is admitted that, owing to the proximity of prohibition and non-prohibition and the national law, which does not permit of restrictions on imports from one State to another, it is evaded to a very great extent by private importations of liquor. The excise duties are uniform throughout the Union, and are dealt with by the National Government. The small distiller also exists in the States, and is not regarded with favour by the Treasury officials or the temperance party.

In Canada much the same state of affairs exists, each Province having its own liquor laws. While I was in Montreal, the licensing court was sitting, and it was found that the number of licences allotted or agreed upon for the city had been exceeded, but they were not arbitrarily decreased, as they were in Johannesburg lately, but no new licences were granted, and only such as had a bad record were taken away, the policy being to reduce them gradually and not entail hardship on properly conducted public-houses or frighten away capital invested in such enterprises. Excise duties are Federal and uniform, and all distillation is under strict Government supervision. The small distiller has practically disappeared owing to the stringency of the regulations, with good results. The licensing question was attracting great attention while I was in England, a Bill for amending the law having been passed in the House of Commons but thrown out by the House of Lords. The liquor laws of the United Kingdom are too large and complex a question to enter into the scope of this report, but it must be apparent to the most casual observer that the number of purely drinking-shops in the large towns is excessive, and that the quality of drink sold requires stricter supervision. As to Sunday closing, Glasgow is often quoted as an instance. A very strict Sunday closing law is in force in that city, and it is alleged, and statistics appear to prove it, that since the introduction of that law Sunday drunkenness and crimes arising from drink, such as wife-beating, have largely increased. I have voluminous evidence on the working of the liquor laws of the United States and Canada, which is at the disposal of the Government should they require any further details.

As regards excise duties, wherever there is federation or union, as in Canada, Australia, the United States of America, and in Germany they are uniform, and dealt with by the National Treasury. A want of uniformity in this respect would mean the continuance of customs supervision on the borders of the various States or Provinces. Except in the United Kingdom, the excise duties are, for protective purposes, considerably lower than the customs duties.

The duties and the revenue derived from the taxation of alcoholic drinks in the Transvaal are very high, the latter being double of that in England and treble of that in the United States and Canada, although the consumption per head of the white population in the Transvaal is only 50 per cent. more than that of the United Kingdom and 20 per cent. more than that of the United States.

Annexure No. 6.

A DIGEST OF THE ENGLISH, CAPE COLONY, AND NATAL ACTS, SHOWING THE RESTRICTIONS IMPOSED ON DISTILLATION.

The English Act. 43 and 44. Victoria, C. 24.

Section 5. (1) No person may, without being licensed to do so, or on any premises to which his licence does not apply

(*a*) have or use a still for distilling, rectifying, or compounding spirits; or

(*b*) brew or make wort or wash, or distil low wines, feints, or spirits; or

(*c*) rectify or compound spirits.

Section 5. (2) If any person contravenes this section he shall, for each offence, incur a fine of £500, and all spirits and vessels, utensils, and materials for distilling or preparing spirits in his possession shall be forfeited.

Section 6. Every person who makes or keeps wash prepared or fit for distillation or low wines or feints, and has in his possession or use a still, shall, as respects the duties, penalties, and forfeitures imposed by law on distillers, be deemed to be a distiller.

Section 8. (1) A person shall not have a licence to keep a still of less capacity than 400 gallons, unless he has in use a still of that capacity, or produces to the Commissioners a certificate signed by three justices for the county or place that he is a person of good character, and fit and proper to be licensed to keep such a still, and that the premises in which he proposes to erect the still, and of which he is in actual possession, are of a yearly value of £10 at least. The Commissioners may, if they think fit, refuse to grant the licence, notwithstanding the production of the justices' certificate; but in case of refusal they shall state the ground thereof in writing signed by them to the justices.

Section 9. A distillery must be within a quarter of a mile of a market town, but the Commissioners may allow it to be beyond that limit if the distiller provides proper lodgings for the officers to be placed in charge of the distillery.

Section 10. A distillery may not be within a quarter of a mile of a rectifier's premises. Penalty, £500.

Section 11. A distiller may not carry on upon his premises the business of a brewer of beer, or a maker of sweets, vinegar, cider, or perry, of a refiner of sugar, or a dealer in or retailer of wine; and his premises may not communicate with any premises upon which any of these businesses are carried on. Penalty, £200.

Section 13. (1) Every distiller *must*, to the satisfaction of the Commissioners, provide a spirit store and cause it to be properly secured.

(2) The spirit store *must* be kept locked by the officer in charge of the distillery at all times except when he is in attendance.

Upon failure to provide or secure a spirit store, the Commissioners may refuse to grant a distiller's licence, or suspend or revoke it.

Section 15. No alterations of vessels, utensils, and pipes may be made without two days' previous notice in writing to the proper officer. Penalty, £200.

Section 17. If on the premises of any distiller, any attempt is made or device used to prevent or hinder an officer from ascertaining the gravity, quantity, or strength of the wort, wash, low wines, feints, or spirits in any vessel, or whilst running, or to deceive him in taking the dip or gauge of any vessel or utensil, the distiller shall for each offence incur a fine of £200.

Section 18. If a distiller places, affixes, or makes any cock, plug, pipe, or opening in, on, to, into, or from any vessel or utensil in contravention of this Act, or causes or procures any cover, fastening, cock, plug, pump, or pipe to be so made or used that any vessel or utensil may be employed, opened, removed, filled, or emptied in the absence of an officer, or as in any manner to avoid or defeat the security intended to be provided by this Act, he shall for each offence incur a fine of £500.

Section 19. Every distiller must, before he begins to brew any wort, make entry of the vessels, utensils, fittings, and places intended to be used by him by signing and sending or delivering to the proper officer an account in the prescribed form setting forth the prescribed particulars.

Section 21. A distiller may use in the brewing or making of wort or wash any material of such nature that the gravity of the wort or wash produced therefrom can be ascertained by the prescribed saccharometer.

Section 22. A distiller must not distil spirits except from wort or wash brewed or made in his distillery.

Section 24. Unlawful hours of brewing and distilling: between 11 p.m. on Saturday and 1 a.m. on Monday.

Section 25. The period of brewing or making wort or wash and the period of distilling spirits must in every distillery be *alternate* and *distinct*.

Section 43. (1) No spirits may be brought into a distiller's spirit store unless they have been distilled in his distillery and conveyed directly from the spirit receiver into the store.

Section 43. (4) All spirits in the store must be filled into casks in the presence of the officer in the prescribed manner.

Section 43. (6) Spirits may not be removed from the store in any quantity less than *nine gallons*.

Section 44. (1) The proper officer shall from time to time take an account in the prescribed manner of the quantity of spirits in a distiller's spirit store.

Section 44. (2) If the quantity of spirits computed at proof found in the store is greater or less than the quantity which, according to the account so taken, ought to be therein, the distiller shall incur a fine of 25s. for every gallon of spirits so in excess or deficient; and the spirits (if any) in excess shall be forfeited.

Section 47. (1) The proper officer shall from time to time make out in the prescribed manner and for the prescribed period, a return of the quantity of spirits for which a distiller is chargeable, and the duty payable thereon, and shall, if required in writing by the distiller, deliver to him, or leave at his distillery, a copy of his return signed by the officer.

Section 47. (2) If the distiller does not pay the duty within the prescribed time, he shall incur a fine of £20, and forfeit double the duty payable by him; the collector has power to distrain all spirits, vessels, etc., belonging to the distiller, and sell the same by public auction.

Section 105. (1) No spirits may be sent out or delivered from a distiller's store unless accompanied by a permit granted by the proper officer. The penalty for contravention of this section is forfeiture of all spirits so sent out, together with all horses, cattle, and vehicles conveying the same.

The Cape Colony Act (No. 36 of 1904).

Section 3. A duty of 6s. per proof gallon shall be payable on every gallon of colonial spirits distilled from wine (now 3s. per gallon on wine brandy).

Section 7. From and after 1st July, 1904, every distiller of colonial spirits shall, from time to time, within three days after the distillation is completed, make a return in writing to the excise receiver of his district, of the quantity of spirits distilled by him, the strength thereof, and the exact locality where such spirits are stored, and upon the sale, removal, or delivery of any colonial spirits, he shall not later than the next day following, or by the ensuing post, make a return in writing to the excise receiver of his district of the quantity and strength so disposed of or removed, and in the case of sale or delivery, the name and full address of the person or persons to whom colonial spirits have been sold or delivered, and shall, in such case of sale or delivery, provide the purchaser or receiver or his agent with a certificate of removal similar to the return sent to the excise receiver.

Section 8. Every agricultural distiller shall, from time to time within fourteen days after every fresh distillation is completed, make a return in writing of the quantity of spirits distilled by him, stating the strength thereof, and in the case of sale, delivery, or removal of the whole or any part thereof shall keep a record of such sale, delivery, or removal, and shall forward to the excise officer of his district a duplicate of the same within fourteen days of such sale, delivery, or removal.

Section 9. In the case of a sale or delivery of colonial spirits to any person other than a licensed dealer in or a retailer of spirits, the distiller, whether agricultural or otherwise, shall pay within a month to the excise receiver of his district the duty leviable upon such spirits.

Section 11. Every wholesale or retail dealer in spirits who purchases or in any manner acquires possession of colonial spirits shall make written return to the excise receiver of his district not later than the next day following or by the next post of the quantity and strength of such spirits, the name and full address of the person or persons from whom acquired or purchased, and the exact locality where stored.

Section 12. Every wholesale dealer and retailer shall make an entry in writing signed by him of every building, room, place, fixed cask, vessel, and utensil intended to be used by him for keeping spirits, distinguishing each place or thing by a separate letter or number; he shall also keep a stock-book on his premises open to inspection by any officer.

Section 13. Every wholesale dealer shall make written return to the exeise officer of his district not later than the next day following of the quantity and strength of colonial spirits by him sold, delivered, or removed, together with the name and full address of the person or persons to whom such spirits have been sold or delivered, and in case of removal the exact locality to which removed.

Section 14. In case of a sale or delivery of colonial spirits to any person other than a licensed dealer in or a retailer of spirits, the wholesale dealer shall pay at the end of each month to the excise receiver of his district the amount of duty leviable upon such spirits.

Section 15. Every retailer shall pay duty at the end of each month upon all colonial spirits sold or disposed of by him.

Section 18. Any person failing to make any of the returns required of him, without reasonable excuse, or making a false return, shall be liable to a fine not exceeding £500, or to imprisonment not exceeding one year.

Section 22. (1) Where any warehouse, room, place, vessel, utensil, or fitting belonging to any excise trader is by this Act directed to be secured or locked, the excise trader shall, to the satisfaction of the proper officer, provide, affix, repair, and renew all fastenings requisite for the purpose of enabling officers to affix locks thereto or otherwise to secure the same.

Section 22. (2) No excise trader, or his servant, shall destroy or damage any fastening, or lock, or key belonging thereto, or any lock label, or open or remove any lock, fastening, or lock label, or improperly obtain access into any warehouse, room, place, vessel, utensil, or fitting so constructed that the security intended to be obtained by any lock or fastening may be defeated.

Section 24. (1) Every still-maker shall keep an account, in the prescribed form, of all stills and distilling apparatus made or repaired, or imported by him, and shall be open at all times to the inspection of an officer who may inspect the same and make extracts therefrom.

Section 24. (2) An officer shall have power at all times to enter upon the premises of a still-maker and to inspect and take account of all stills or distilling apparatus found therein.

Section 25. An officer may at any time, either by day or night, enter any part of the premises of, or house or place whatsoever belonging to, or made use of, by a distiller other than an agricultural distiller or rectifier, search for, examine, gauge, and take an account of any still or other vessel or utensil and also any spirits or materials for the manufacture of spirits therein. If a distiller or rectifier, after demand for admission has been made by an officer, shall refuse to admit such officer, he shall for each offence be liable to a penalty not exceeding £10, or to imprisonment not exceeding one month.

Section 29. Any person assaulting or opposing an officer in the execution of his duty shall incur a penalty.

Act 26 of 1905.

Section 5. Notwithstanding anything to the contrary contained in any law, any excise duty accruing under any law for the time being in force, and which shall remain unpaid, shall be recoverable in the Court of the Resident Magistrate of the district in which the duty accrued.

The Natal Act (No. 33 of 1901).

Section 11. Duty on spirits (repealed by Act 10 of 1906).

Section 12. Duty on spirits (repealed by Act 25 of 1905, section *three*).

Section 13. A licence is required to

keep a still;
make a still;
distil spirits;
rectify or compound spirits;
sell methylated spirits by retail;
make wine.

Section 14. No licence is required for

a still of less capacity than 6 gallons if used for experiments authorized by the Controller, with the approval of the Minister, or for any purpose similarly authorized;
for a still imported for transportation and not remaining in the Colony for longer than thirty days.

Section 15. Application must be made for licences to distil.

Section 16. (1) Every application for a licence to distil spirits or to rectify spirits shall set forth the kind of still to be used, the capacity thereof, and the place where it is to be used.

Section 16. (2) In the case of a new licence the applicant shall furnish plans of the premises and of the position of the various vessels and appliances, and no distillation shall take place until the proper officer shall have given a written certificate that the premises, vessels, and appliances are erected in accordance with the plans and the Controller's satisfaction.

Section 16. (3) In the case of the renewal of a licence the application shall be accompanied by the certificate of the proper officer that the buildings are suitable and in proper order.

Section 17. (1) The Controller shall have the discretion to refuse any application for a new licence.

Section 17. (2) In the case of a refusal he shall deliver to the applicant a written statement of the reasons for refusal.

Section 17. (3) The applicant shall have the right of appeal to the Governor-in-Council whose decision shall be final.

Section 18. (1) The Controller shall have the discretion to refuse a new licence or a renewal of a licence to any person who shall have been convicted of having illicitly rectified, compounded, removed, transported, or sold any spirits.

Section 18. (2) The conviction of a manager or responsible representative of an applicant shall for the purposes of this section be deemed to be a conviction of the applicant.

Section 18 (3) The applicant shall have the right of appeal to the Governor-in-Council, whose decision shall be final.

Section 19. No licence shall be granted to keep or use any still of less capacity than 150 gallons, nor to keep or use any apparatus capable of distilling less than 200 gallons of wash per diem.

Section 20. A licence to distil, rectify, or compound spirits shall be granted only to an owner, lessee, or trustee in actual possession of the farm or premises. In case of absence of any of these a licence may be granted to a manager or agent specially appointed.

Section 21. The duty shall be paid to the Controller before a licence is issued.

No licence shall authorize any business at more than one place or at any premises other than those specified.

Section 22. On the importation of a still, or portion of a still into this Colony, the Controller of Customs shall, without delay, apprise the Controller thereof in writing, stating the names of the owner and the importer of the still. The Controller shall thereupon inform the owner and the importer of the liability incurred in keeping a still without a licence.

Section 23. The Controller may suspend a licence if the holder thereof neglects any duty in regard to his premises or any buildings, appliances, stock-books, or the mode of conducting his business.

Section 27. Any person keeping or using a still without a licence, or does any act not authorized by a licence, is liable upon conviction to six months and £100, plus treble the colonial duty for every gallon proved to have been distilled or rectified.

Section 27. (2) If any person, by himself or his servant, obstructs any excise officer in the performance of his duty he shall be guilty of an offence.

Section 27. (3) Any person who uses any material, sets up wash, or uses any still between 10 p.m. on Saturday and 1 a.m. on Monday, except in case of emergency, shall be liable to a fine not exceeding £20.

Section 29. (1) A distiller or rectifier shall not be licensed to carry on or be interested or concerned in the business of a dealer in or retailer of spirits within four miles of his licensed premises and vice versa. Any person contravening these provisions is liable to a fine not exceeding £300.

Section 30. Every licensed person shall have his name securely affixed in a conspicuous place on the outside of the licensed premises in legible letters of at least two inches in height—neglect an offence.

Section 31. Every distiller shall, before he begins to prepare any wort, make entry of the premises, vessels, utensils, and fittings intended to be used by him, by signing and delivering to the proper officer for the information of the Controller, an account in the prescribed form. An offence to make false entry or omit anything.

Section 34. Every distiller shall keep a secure safe and receiver; where an alcoholometer is used the Controller may dispense with the receiver.

Section 34. (2) The worm end of every still shall be enclosed in such safe, and such safe shall communicate only a close metal pipe with the respective receivers of low wines, feints, or spirits or with the alcoholometer when such is used.

Section 34. (3) Every still, safe, and receiver, and the pipes connected therewith shall be constructed and provided with cocks, taps, or other requirements for the reception of revenue locks or rods to the satisfaction of the Controller or some officer deputed by him.

Section 34. (4) Only rods and revenue locks and keys as shall be provided and approved by the Controller at Government expense shall be used in any distillery. Every safe and receiver shall be kept locked unless opened for a lawful purpose under the supervision of the Excise Surveyor, or when allowed to be open under the inspection of the Controller.

Section 34. (5) Such provisions shall be made by each distiller for the safe custody of the keys and locks for the accommodation of an excise officer as is approved by the Controller.

Section 37. Each vat or butt, other than the receivers, required to be kept at any distillery for the reception of low wines, feints, or spirits for re-distillation must be approved by the Controller in the followng respects:—

(*a*) It must be securely and conveniently erected and fixed.

(*b*) It must communicate with the discharging cocks of the respective receivers by a close metal or other satisfactory pipe.

(*c*) It must be marked and kept in accordance with the provisions of the Fourth Schedule, first part.

(*d*) It must be accessible at all times for taking an account of the quantity or strength of the contents.

Section 42. (1) Any officer of excise or customs and any police constable may stop and detain any person whom he shall reasonably suppose to be carrying or removing any colonial spirits from a distillery or warehouse, or imported spirits from a wharf or warehouse, and may examine the spirits or any package or vessel supposed to contain such spirits, and may require the production of the permit.

Section 42. (3) If any person is found so carrying or removing any colonial spirits and does not, on request by such officer, forthwith produce the proper permit, he shall be guilty of an offence.

Section 46. (1) Every distiller shall provide himself with and keep a stock-book at an approved place in his distillery. Such stock-book shall be in the form and shall contain the particulars to be prescribed by regulations to be framed under this Act.

Section 46. (3) The distiller shall keep such book open to inspection by an officer.

Section 49. (1) Every distiller shall provide at his distillery a suitable and secure spirit store to be approved by the Controller.

Section 52. (2) The proper officer shall at least once in every twelve calendar months, re-gauge the whole stock of spirits in a store in the prescribed manner.

Section 52. (3) If on balancing the stock so taken, computed at proof, any increase of spirits is found, the excess shall be forfeited, and the distiller shall, in addition, forfeit ten shillings for each gallon in excess.

Section 52. (4) If any deficiency of spirits is found exceeding the allowance authorized by the Fifth Schedule, the colonial duty must be forthwith paid thereon.

Section 105. (1) No spirits may be sent out or delivered from a distiller's spirit store or a warehouse unless accompanied by a permit.

Section 105. (4) All spirits sent out, delivered, or removed in contravention of this section, together with all horses, cattle, vehicles, and boats made use of in conveying the same may be forfeited, and every person in whose possession the same are found shall be liable to a fine not exceeding one hundred pounds, or at the election of the Controller a fine equal to double the duty on the spirits; provided that if the owner of any such horses, cattle, conveyances, or boats (not being himself a party to such an offence) shall prove that they were used without any connivance on his part, they shall not be forfeited.

Section 106. (1) A permit may be granted by the Controller or officer deputed by him upon a request note by a distiller or by an owner of spirits.

Section 107. (1) Every rectifier or compounder shall from time to time, by written request, obtain from the Controller a certificate book.

Section 107. (2) The certificate book shall be kept and used, and certificates given and delivered, and inspection shall be permitted, as may be prescribed, and the book when finished shall at once be returned to the Controller.

Section 142. Every contravention of this Act or of the regulations, or the disobedience or disregard of any duty imposed by this Act or the regulations, shall be an offence.

Section 144. (1) Every offence of which the punishment is not specially defined shall be cognizable in the court of a magistrate, and shall be punishable by a fine not exceeding one hundred pounds sterling, or in default of payment by imprisonment with or without hard labour for any term not exceeding six months.

ANNEXURE No. 7.

TABULATED STATEMENT SHOWING THE LEADING CHARACTERISTICS OF THE DIFFERENT METHODS ADOPTED BY THE SEVERAL SOUTH AFRICAN COLONIES FOR DEALING WITH THE SALE OF LIQUOR UNDER VARIOUS CIRCUMSTANCES.

COMPARATIVE TABLE OF THE PROVISIONS FOR THE SALE OF LIQUOR IN THE VARIOUS COLONIES.

NOTE. This Table takes no account of the provisions for the manufacture of liquor, nor of the restrictions on the purchase of liquor by certain classes of persons; consequently, when it is stated that a licence authorizes sale to "any one", this must be read "any one not prohibited by law from purchasing liquor", nor does it deal with the provisions for the supply of kaffir beer to natives.

	TRANSVAAL.	CAPE COLONY.	ORANGE RIVER COLONY.	NATAL.
Name of licence ..	*Wholesale.*	*Wholesale.*	*Wholesale.*	*Wholesale.*
Who may hold it ..	Individual, company, or partnership.	Individual, company, or partnership.	Individual, company, or partnership.	No retail dealer except holder of liquor, chemist's, or grocer's licence.
By whom granted ..	Licensing court.	Licensing court.	Licensing court.	Licensing court.
Kind of liquor to be sold ..	Any.	Any.	Any.	Any.
To whom	Any one.	Any but a native, not holding a retail or bottle licence.	Any one.	Any one.
In what quantity ..	Not less than 2 gallons in cask, 12 reputed quarts, or 24 reputed pints in bottle.	Not less than 5 gallons in cask, 12 reputed quarts, or 24 reputed pints in bottle in unbroken case, which must be all of same brand, unless for export.	Not less than 2 gallons in cask, 12 reputed quarts, or 24 reputed pints of the same kind of liquor in bottle.	Not less than 2 gallons in cask, 12 reputed quarts, or 24 reputed pints in bottles.
Where to be consumed ..	Off.	Off.	Off.	No provision.
Days and hours for sale ..	Between 8 a.m. and 8 p.m. (or less, at the discretion of the court) on any day.	During any hours of any day except Sunday; election day, closed 8 a.m.–6 p.m.	No provision.	No provision.
Special conditions ..	Must keep books open to police inspection. Must not deliver outside hours.	May, with approval of resident magistrate, store in any number of places within two miles of each other.	Must keep books open to police inspection.	None.
Statutes	Tr. No. 32 of 1902, sec. 7 (1); Tr. No. 8 of 1906, sec. 3.	C.C. No. 28 of 1883, secs. 7 (1), 14, 15; No. 28 of 1898, sec. 3; No. 34 of 1904, sec. 10; No. 17 of 1909, sec. 5.	O.R.C. No. 8 of 1903, sec. 7 (1); No. 10 of 1905, sec. 7 (3).	N. No. 38 of 1896, secs. 7, 8; N. Reg. No. 1, No. 41 of 1909.
Name of licence	*Hotel.*	*Sunday Privileges.*	*Hotel Privileges.*	*Hotel.*
Who may hold it ..	Individual.	Holder of retail licence.	Holder of a retail licence.	No provision.
By whom granted ..	Licensing court.	Licensing court.	Licensing court.	Licensing court.
Kind of liquor to be sold ..	Any.	As authorized by other licence.	Any.	Any.
To whom	Persons sleeping, boarding, or taking meals on the premises.	On Christmas Day and Good Friday, as authorized by other licence; on Sunday to persons taking and paying for a bona fide lunch or dinner.	Persons sleeping, boarding, or taking meals on the premises.	Persons sleeping or boarding on the premises and bona fide travellers.

In what quantity ..	By retail.	On Christmas Day and Good Friday, as authorized by other licence; on Sunday a reasonable quantity.	On, by retail; off, not exceeding 1 gallon in bottles.	In retail quantity.
Where to be consumed ..	On.	On Christmas Day and Good Friday as authorized by other licence; on Sunday, at the meal.	See last note.	No provision.
Days and hours of sale ..	On any day, during such hours as the court fixes.	Christmas Day and Good Friday, at the discretion of the court: Sunday, no hours limited.	On Sunday, Christmas Day, Good Friday, and election days, from noon to 2.30 p.m. and 6 p.m.–8 p.m.	Weekdays, 6 a.m.–11 p.m.; Sundays, at meal-times to persons having meals. All days, 6 a.m.–1 a.m., to lodgers and travellers. Town councils may reduce weekly hours from 11 p.m. to 10 p.m.
Special conditions ..	Must have suitable accommodation.	None.	Must have suitable accommodation.	None.
Statutes	Tr. No. 32 of 1902, sec. 7 (2); No. 17 of 1903, sec. 4 (1).	C.C. No. 44 of 1885, sec. 7; No. 25 of 1891, sec. 26.	O.R.C. No. 8 of 1903, sec. 7 (3).	N. No. 38 of 1896, sec. 11; No. 36 of 1899, sec. 6; No. 32 of 1901, sec. 1.
Name of licence ..	*Restaurant* or *Café*.	*(No such licence.)*	*Restaurant* or *Café*.	(No name: goes with Bar licence.)
Who may hold it ..	Individual.	—	Individual.	Holder of bar licence carrying on a restaurant within a town.
By whom granted ..	Licensing court.	—	Licensing court.	No grant required.
Kind of liquor to be sold ..	Any.	—	Any.	Any.
To whom	Persons taking meals in the restaurant.	—	Persons taking meals in the restaurant.	Persons then bona fide and actually having meals at the restaurant.
In what quantity ..	By retail.	—	By retail.	In retail quantities.
Where to be consumed ..	At the meal.	—	At the meal.	No provision.
Days and hours of sale ..	On any day, between 10 a.m. and 9 p.m. (or less, at the discretion of the court).	—	On any day between 10 a.m. and 9 p.m. (or less, at the discretion of the court).	On Sundays, between 1 and 2.30 p.m., and between 6 and 7.30 p.m.
Special conditions ..	None.	—	May not be granted in respect of premises where sleeping accommodation for hire is provided.	None.
Statutes	Tr. No. 32 of 1902, sec. 7 (3).	—	O.R.C. No. 8 of 1903, sec. 7 (4); No. 10 of 1905, sec. 6.	N. No. 36 of 1899, sec. 6.
Name of licence	*Malt*.	*(No such licence.)*	*Brewer's Bottle*.	*Colonial Beer*.
Who may hold it ..	Individual.	—	Holder of brewer's licence.	No provision.
By whom granted ..	Licensing court.	—	Licensing court.	Licensing court.
Kind of liquor to be sold	Ale, beer, porter, cider, perry, and hop beer.	—	Colonial beer made by the holder.	Beer made in the Colony.
To whom	Any one.	—	Any one.	Any one.

METHODS FOR THE SALE OF LIQUOR IN THE SOUTH AFRICAN COLONIES—(*continued*).

	Transvaal.	Cape Colony.	Orange River Colony.	Natal.
Name of licence—(*contd.*)	*Malt.*	(*No such licence.*)	*Brewer's Bottle.*	*Colonial Beer.*
In what quantity ..	Less than one reputed quart bottle.	—	By the bottle.	No provision.
Where to be consumed ..	On.	—	On or off.	No provision.
Days and hours of sale ..	Sunday, Christmas Day, Good Friday, not at all. Election day, after close of poll. Other days, 8 a.m.–9 p.m. (or less, at the discretion of the court).	—	No provision.	Weekdays, 6 a.m.–11 p.m.; Sundays, not at all. Town councils may reduce hours from 11 p.m. to 10 p.m.
Special conditions ..	None.		Only one licence to be held by each brewer.	None.
Statutes	Tr. No. 32 of 1902, sec. 7 (4).		O.R.C. No. 29 of 1906.	N. No. 38 of 1896, sec. 16; No. 30 of 1899, sec. 6; No. 32 of 1901, sec. 1.
Name of licence ..	*Bottle.*	*Bottle.*	*Bottle.*	*Bottle.*
Who may hold it ..	Individual.	Individual.	Individual.	No provision.
By whom granted ..	Licensing court.	Licensing court.	Licensing court.	Licensing court.
Kind of liquor to be sold ..	Any.	Any.	Any.	Any.
To whom	Any one.	Any one.	Any one.	Any one.
In what quantity ..	Not less than reputed pint or one flask as imported, not more than 12 reputed quarts, or 24 reputed pints in corked bottles.	Not less than reputed pint in corked bottles.	Not less than reputed pint or one flask as imported, not more than 12 reputed quarts, or 24 reputed pints in corked bottles.	Not less than reputed pint in sealed bottles.
Where to be consumed ..	Off.	Off.	Off.	Off.
Days and hours of sale ..	Sunday, Christmas Day, Good Friday, not at all. Election day, after close of poll. Other days, 8 a.m.–8 p.m. (or less, in the discretion of the court).	Sunday, Christmas Day, Good Friday, not at all. Other days, 8 a.m. to 8 p.m. (or less at the discretion of the Court.) Election day, closed 8 a.m.–6 p.m.	Sunday, Christmas Day, Good Friday, not at all. Election day, after close of poll. Other days, 7 a.m. to 8 p.m. (or less in the discretion of the court); may be extended to 9 p.m. one day in the week.	Sunday, not at all; other days, 6 a.m. to 11 p.m. Town councils may substitute 10 p.m. for 11 p.m.
Special conditions ..	In regard to sales of maximum quantity, must keep books open to police inspection and not deliver outside hours.	Licences in existence prior to 21st August, 1891, fall under former conditions.	None.	None.
Statutes	Tr. No. 32 of 1902, sec. 7 (5); No. 8 of 1906, sec. 4.	C.C. No. 28 of 1883, sec. 7 (3); No. 44 of 1885, sec. 3; No. 25 of 1891, sec. 1; No. 17 of 1909, sec. 5.	O.R.C. No. 8 of 1903, sec. 7 (2); No. 10 of 1905, sec. 9 (4).	N. No. 38 of 1896, sec. 14; No. 36 of 1899, sec. 6; No. 32 of 1901, sec. 1.

Name of licence ..	*General Retail.*	*Retail.*	*Retail.*	*Bar.*
Who may hold it ..	Individual.	Individual.	Individual.	No provision.
By whom granted ..	Licensing court.	Licensing court.	Licensing court.	Licensing court.
Kind of liquor to be sold ..	Any.	Any.	Any.	Any.
To whom	Any one.	Any one.	Any one.	Any one.
In what quantity ..	Any quantity.	Any quantity.	Any quantity.	In retail quantity.
Where to be consumed ..	On.	On or off.	On.	On or off.
Days and hours of sale ..	Sunday, Christmas Day, Good Friday, not at all. Election day, after close of poll. Other days, 8 a.m.–9 p.m. (or less at the discretion of the court).	Sunday, Christmas Day, and Good Friday, not at all. Other days, 7 a.m.–9 p.m. (or less, at the discretion of the court). Election day, closed 8 a.m.–6 p.m. unless boarding-house.	Sunday, Christmas Day, Good Friday, not at all (*but see Hotel*). Election day, after close of poll. Other days, 8 a.m. to 9 p.m. (or less, at the discretion of the court).	Sunday, not at all (*but see Restaurant*). Other days, 6 a.m. to 11 p.m. Town Councils may substitute 10 p.m. for 11 p.m.
Special conditions ..	None.	Court may require accommodation for travellers.	None.	Must be in a town; for outside see *Country Hotel*.
Statutes	Tr. No. 32 of 1902, sec. 7 (6).	C.C. No. 28 of 1883, secs. 7 (2), and 38; No. 25 of 1891, sec. 4; No. 17 of 1909, sec. 5.	O.R.C. No. 8 of 1903, sec. 7 (3) (*a*).	N. No. 38 of 1896, sec. 13; No. 36 of 1899, sec. 6; No. 32 of 1901, sec. 1.

Name of licence ..	(See *Hotel.*)	(See *Retail.*)	(See *Hotel Privileges.*)	*Country Hotel.*
Who may hold it ..	—	—	—	No provision.
By whom granted ..	—	—	—	Licensing court.
Kind of liquor to be sold ..	—	—	—	Any.
To whom	—	—		Any one.
In what quantity ..	—	—	—	In retail quantity.
Where to be consumed ..	—	—	—	On or off.
Days and hours of sale ..	—	—	—	Sunday, at meal times to persons having meals in the hotel. Other days, 6 a.m. to 11 p.m. All days to lodgers only, 6 a.m.–1 a.m.
Special conditions ..	—	—		Must be outside a town; for inside, see *Hotel* and *Bar*.
Statutes	—	—	—	N. No. 38 of 1896, sec. 12. No. 36 of 1899, sec. 6; No. 32 of 1901, sec. 1.

METHODS FOR THE SALE OF LIQUOR IN THE SOUTH AFRICAN COLONIES—(*continued.*)

	Transvaal.	Cape Colony.	Orange River Colony.	Natal.
Name of licence ..	*Club.*	*Club.*	*Club.*	*Club.*
Who may hold it ..	Steward or manager of the club.	Steward or manager of the club.	Steward or manager of the club.	No provision.
By whom granted ..	Licensing court.	Licensing court.	If non-proprietary and occupying premises worth £2000, resident magistrate; otherwise licensing court.	Licensing court.
Kind of liquor to be sold	Any.	Any.	Any.	Any.
To whom	Members of the club.	Members of the club.	Members of the club.	Members, honorary members, and guests admitted under the club rules.
In what quantity ..	Any quantity.	Any quantity.	Any quantity.	No provision.
Where to be consumed ..	On.	On.	On.	On.
Days and hours of sale ..	Any hour of the day.	Any hour of the day.	Any hour of the day.	No provision.
Special conditions ..	Must be bona fide club, where only members and their guests can enter, and only members can pay for anything. Copy of rules must be deposited with court.	Only members and their guests to be allowed entry, and only members to pay for anything. Must be certified as bona fide by the resident magistrate. Club premises are not "licensed premises".	Must be bona fide club, where only members and their guests can enter, and only members can pay for anything. Copy of rules must be deposited with granting authority.	Rules must be approved by Governor, upon the recommendation, if in a town, of the mayor; copy of rules must be deposited with court.
Statutes	Tr. No. 32 of 1902, sec. 7 (7); No. 8 of 1906, sec. 5.	C.C. No. 28 of 1883, secs. 7 (5) and 10; No. 44 of 1885, sec. 4; No. 34 of 1904, sec. 7 (1).	O.R.C. No. 8 of 1903, sec. 7 (5); No. 10 of 1905, sec. 9 (6).	N. No. 38 of 1896, sec. 25; No. 32 of 1901, sec. 5; Reg. No. 1.
Name of licence	*Theatre.*	(*No such licence.*)	*Theatre.*	(*No such licence.*)
Who may hold it ..	Individual.	—	Individual.	—
By whom granted ..	Licensing court.	—	Licensing court.	—
Kind of liquor to be sold ..	Any.	—	Any.	—
To whom	Any one.	—	Any one.	—
In what quantity ..	By retail.	—	By retail.	—
Where to be consumed ..	On.	—	On.	—
Days and hours of sale ..	Sunday, Christmas Day, and Good Friday, not at all. Other days, during entertainment.	—	Sunday, Christmas Day, and Good Friday, not at all. Other days, during entertainment. If theatre cost £15,000, hours may be extended to midnight when entertainment continues till 10.30 p.m., and thereafter till 1 a.m. to persons taking meals; but not after Saturday midnight.	—

Special conditions ..	Must be in a building, portion of which is used as a theatre.	—	Must be in a building, portion of which is used as a theatre.	—
Statutes	Tr. No. 32 of 1902, sec. 7 (9).	—	O.R.C. No. 8 of 1903, sec. 7 (7); No. 10 of 1907, sec. 3.	—
Name of licence ..	*Temporary.*	*Temporary.*	*Temporary.*	*Temporary Bar.*
Who may hold it ..	Holder of general retail licence.	Holder of retail licence.	Holder of retail licence.	Holder of retail licence.
By whom granted ..	Resident magistrate.	Resident magistrate.	Resident magistrate, on report of police.	President of court, with written consent of committee of sports.
Kind of liquor to be sold ..	Any.	Any.	Any.	Any.
To whom	Any one.	Any one.	Any one.	Any one.
In what quantity ..	By retail.	By retail.	By retail.	No provision.
Where to be consumed ..	No provision.	No provision.	No provision.	No provision.
Days and hours of sale ..	Not on Sunday, Christmas Day or Good Friday; otherwise in magistrate's discretion up to three days and while the entertainment continues.	In magistrate's discretion up to 21 days; on days when licensee might sell in his licensed premises.	Not on Sunday, Christmas Day, or Good Friday; otherwise in magistrate's discretion up to three days, and while the entertainment continues.	Not more than three days.
Special conditions ..	Must be at a place of recreation or public amusement; resident magistrate may impose any conditions.	Must be at a place of recreation or public amusement; resident magistrate may impose any conditions.	Must be at a place of recreation or public amusement; resident magistrate may impose any conditions.	Must be at races, sports, or like entertainments; may be revoked by president.
Statutes	Tr. No. 32 of 1902, sec. 7 (10).	C.C. No. 28 of 1883, secs. 7 (4), 18, and 19; No. 44 of 1885, sec. 6.	O.R.C. No. 8 of 1903, sec. 7 (10).	N. No. 38 of 1896, sec. 72.
Name of licence ..	*(No Provision.)*	*(No Provision.)*	*(No Provision.)*	*Temporary Club.*
Who may hold it ..	—	—	—	Steward or like officer of club.
By whom granted ..	—	—	—	President of licensing court.
Kind of liquor to be sold ..	—	—	—	Any.
To whom	—	—	—	Members, honorary, and guests.
In what quantity ..	—	—	—	No provision.
Where to be consumed ..	—	—	—	No provision.
Days and hours of sale ..	—	—	—	No provision.
Special conditions ..	—	—	—	In a club, marquee, or shed, at any races, sports, or like entertainments.
Statutes	—	—	—	N. No. 38 of 1896, sec. 26; Reg. No. 24.

METHODS FOR THE SALE OF LIQUOR IN THE SOUTH AFRICAN COLONIES—(*continued.*)

	Transvaal.	Cape Colony.	Orange River Colony.	Natal.
Name of licence ..	*Brewer's.*	—	*Brewer's.*	—
Who may hold it ..	Individual, company, or partnership.	—	Individual, company, or partnership.	—
By whom granted ..	Director of Customs as a matter of course.	—	Receiver of revenue as a matter of course.	—
Kind of liquor to be sold ..	Malt liquor manufactured by holder.	—	Malt liquor manufactured by holder.	—
To whom	Any one.	—	Any one.	—
In what quantity ..	Not less than 2 gallons in cask. 12 reputed quarts, or 24 reputed pints in bottles.	—	Not less than 2 gallons.	—
Where to be consumed ..	Off.	—	Off.	—
Days and hours of sale ..	Between 8 a.m. and 8 p.m. (or less, at the discretion of the licensing court) of any day.	—	No provision.	—
Special conditions ..	Must keep books open to police inspection; must not deliver outside hours; and various excise provisions.		Must keep books open to police inspection; and various excise provisions.	—
Statutes	Tr. No. 32 of 1902, sec. 7 (11); No. 9 of 1907; No. 33 of 1909, sec. 7.	—	O.R.C. No. 8 of 1903, sec. 7 (9); No. 10 of 1905, sec. 5; No. 29 of 1906.	—
Name of licence ..	*Distiller's.*	*No licence; an exemption.*	*Distiller's.*	—
Who may hold it. ..	Individual.	Persons engaged in agriculture.	Individual.	—
By whom granted ..	Receiver of revenue.	No grant required.	Receiver of revenue as a matter of course.	—
Kind of liquor to be sold ..	Spirits distilled by the holder from the produce of vine.	The produce of fruit, distilled or made on property occupied by the seller.	Spirits distilled by the holder.	—
To whom	Persons licensed to deal in spirituous liquors.	Any one, if sale effected on seller's property or on a public market; elsewhere, only to licensed dealer.	Any one.	—
In what quantity ..	No provision.	Not less than 7 gallons.	Not less than 2 gallons.	—
Where to be consumed ..	No provision.	Off.	No provision.	—
Days and hours of sale ..	No provision.	No provision.	No provision.	—
Special conditions ..	Various excise conditions.	Various excise conditions.	Various excise conditions.	—
Statutes	Tr. No. 32 of 1902, secs. 8, 9; No. 4 of 1906, sec. 9; Government Notice No. 653 of 1906.	C.C. No. 28 of 1883, sec. 2 (3) (4).	O.R.C. No. 8 of 1903, sec. 7 (8); No. 10 of 1905, sec. 5; No. 29 of 1906.	—

Name of licence ..	*Canteen.*	*Regimental Canteen.*	*Canteen.*	No licence; volunteer and police canteens are exempted [N. No. 38 of 1896, sec. 6 (5)].
Who may hold it ..	Officer or non-commissioned officer.	Individual.	Individual.	—
By whom granted ..	Commanding officer.	Resident magistrate, on certificate of field officer commanding.	Resident magistrate, on application of commanding officer; if to a member of the police, as a matter of course.	—
Kind of liquor to be sold ..	Any.	Any.	Any.	—
To whom	Member of the force for the use of which the canteen in question has been established	Member of the force commanded by such field officer.	Member of the force for the use of which the canteen has been established.	—
In what quantity ..	By retail.	Any quantity.	By retail.	—
Where to be consumed ..	On.	No provision.	On.	—
Days and hours of sale ..	Sunday, Christmas Day, Good Friday, not at all. Election day, after close of poll. Other days, 8 a.m.–9 p.m. (or less, at the discretion of the licensing court).	At any time.	Sunday, Christmas Day, Good Friday, not at all; election day, after close of poll; other days, 2 a.m.–9 p.m. (or less at the discretion of the licensing court).	—
Special conditions ..	Can only be granted for police or, during training, for volunteers, subject to conditions of general retail licence.	Can only be granted for Cape Mounted Rifles or Cape Infantry, liable to be cancelled at any time by resident magistrate on recommendation of field officer commanding.	Can only be granted for the police; subject to same conditions as retail licence; only grantable at posts notified by Lieutenant-Governor in *Gazette*.	—
Statutes	Tr. No. 17 of 1903, sec. 3.	C.C. No. 44 of 1885, sec. 10	O.R.C. No. 8 of 1903, sec. 2 (*e*); No. 10 of 1905, secs. 1, 2.	—
Name of licence ..	*Railway Employés.*	(*No Provision.*)	(*No Provision.*)	(*No Provision.*)
Who may hold it ..	Person approved by the Commissioner of Railways.	—	—	—
By whom granted ..	Commissioner of Railways.	—	—	—
Kind of liquor to be sold ..	Ale, beer, porter, cider, perry, and hop beer.	—	—	—
To whom	White males over sixteen years, employed on railway construction.	—	—	—
In what quantity ..	Not exceeding 1 reputed quart.	—	—	—
Where to be consumed ..	On or off.	—	—	—
Days and hours of sale ..	To be stated in the licence.	—	—	—
Special conditions ..	Liable to cancellation at any time by the Commissioner; subject to same conditions as general retail licence.	—	—	—
Statutes	Tr. No. 68 of 1903, sec. 1.	—	—	—

METHODS FOR THE SALE OF LIQUOR IN THE SOUTH AFRICAN COLONIES—(*continued.*)

	Transvaal.	Cape Colony.	Orange River Colony.	Natal.
Name of licence ..	(*No special provision for the sale of natural wine.*)	(*No licence; an exemption.*)	(*No special provision for the sale of natural wine.*)	(*No special provision for the sale of wine.*)
Who may hold it ..	—	Wine farmer or association of wine farmers.	—	—
By whom granted ..	—	No grant required.	—	—
Kind of liquor to be sold ..	—	Pure natural wine, the produce of the seller's grapes, and made upon the seller's property.	—	—
To whom	—	Owner or occupier of property rated at £150, and non-residents in the Colony.	—	—
In what quantity ..	—	Not less than 4 gallons in bulk, 12 reputed pints in unbroken case in bottles.	—	—
Where to be consumed ..	—	Off.	—	—
Days and hours of sale ..	—	No provision.	—	—
Special conditions ..	—	Must have been sold or ordered before being delivered from cellar.	—	—
Statutes	—	C.C. No. 8 of 1907; No. 24 of 1909.	—	—
Name of licence ..	*Midnight Privileges.*	*Midnight Privileges.*	*Midnight Privileges.*	*Extension Permit.*
Who may hold it ..	Holder of restaurant, malt, or general retail licence.	Holder of retail licence.	Holder of retail or restaurant licence.	Holder of a bar licencee carrying on a restaurant within a town.
By whom granted ..	Licensing court.	Licensing court.	Licensing court.	President of court.
Kind of liquor to be sold ..	Same kind as authorized by other licencee held.	As authorized by other licencee.	As authorized by other licence.	Any.
To whom	Same persons as authorized by other licence held.	As authorized by other licencee.	As authorized by other licence.	Persons attending a public or private dinner at the restaurant.
In what quantity ..	Same quantity as authorized by other licence held.	As authorized by other licene	As authorized by other licenee.	In retail quantities.
Where to be consumed ..	As authorized by other licence held.	As authorized by other licenee.	As authorized by other licenee.	No. provision.
Days and hours of sale ..	Until midnight (or less at the discretion of the court) on days when sale authorized by other licence held.	Until midnight (or less at the discretion of the court) on days when sale authorized by other licencee.	Until 11 p.m. (or less at the discretion of the court) on days when sale authorized by other licence.	Up to a time stated in the permit by the president.
Special conditions ..	Only grantable for six months; may be withdrawn at any time by president and two members of court on report of police.	None.	None.	None.
Statutes	Tr. No. 32 of 1902, sec. 19; No. 68 of 1903, sec. 2.	C.C. No. 28 of 1883, sec. 39.	O.R.C. No. 8 of 1903, sec. 7 (3) (*e*).	N. No. 36 of 1899, sec. 6.

Name of licence ..	*(No Provision.)*	*(No Provision.)*	*Agent of a Foreign Firm.*	*(No Provision.)*
Who may hold it ..	—	—	Representative of licensee outside the Colony.	—
By whom granted ..	—	—	Receiver of revenue as a matter of course.	—
Kind of liquor to be sold..	—	—	Any.	—
To whom	—	—	Licensees.	—
In what quantity ..	—	—	Not less than 2 gallons in cask, 12 reputed quarts, or 24 reputed pints of the same kind of liquor in bottle.	—
Where to be consumed..	—	—	No provision.	—
Days and hours of sale ..	—	—	No provision.	—
Special conditions ..	—	—	Liquor must be consigned direct to purchaser.	—
Statutes	—	—	O.R.C. No. 8 of 1903, sec. 6 (12); No. 10 of 1905, sec. 3.	—

Name of licence ..	*(No Provision.)*	*(No Provision.)*	*Sanatorium.*	*(No Provision.)*
Who may hold it ..	—	—	Individual.	—
By whom granted ..	—	—	Licensing court with written consent of Lieutenant-Governor.	—
Kind of liquor to be sold..	—	—	Any.	—
To whom	—	—	Any one.	—
In what quantity ..	—	—	Any quantity.	—
Where to be consumed..	—	—	On; if hotel privileges granted, to persons sleeping, boarding, or taking meals, not more than 1 gallon in bottles for consumption off.	—
Days and hours of sale ..	—	—	Same as *Retail*, *q.v.*	—
Special conditions ..	—	—	Building must be worth £10,000; notice of intention to apply for Lieutenant-Governor's consent must be published in local paper three times two weeks before application is made; plan must be sent with application.	—
Statutes	—	—	O.R.C. No. 10 of 1905, sec. 11.	—

METHODS FOR THE SALE OF LIQUOR IN THE SOUTH AFRICAN COLONIES—(*continued*).

	Transvaal.	Cape Colony.	Orange River Colony.	Natal.
Name of licence ..	(*No Provision.*)	*Light Wine.*	(*No Provision.*)	(*No Provision.*)
Who may hold it ..	—	Individual, company, or partnership.	—	—
By whom granted ..	—	Town council.	—	—
Kind of liquor to be sold..	—	Natural wine.	—	—
To whom	—	Any one.	—	—
In what quantity ..	—	No provision.	—	—
Where to be consumed..	—	On.	—	—
Days and hours of sale ..	—	In discretion of council, but not to be more favourable than the most favourable conditions imposed by the licensing court upon retail licences in the municipality; Sunday, Christmas Day, and Good Friday, not at all, except to boarders. Election days, closed 8 a.m.–6 p.m., unless boarding houses.		—
Special conditions ..	—	Most of the conditions attaching to a retail licence; can obtain temporary licence; only one licence in each town to same holder.	—	—
Statutes	—	C.C. No. 40 of 1908; No. 17 of 1909.	—	—
Name of licence ..	*Railway Station.*	*No Name.*	*Railway Station.*	*Railway Bar.*
Who may hold it ..	Lessee of refreshment room or servant of the Railway Administration.	Lessee of refreshment room or Commissioner of Public Works.	Lessee of refreshment room or servant of the railways.	Caterer at railway station.
By whom granted ..	General Manager, with approval of resident magistrate, if licensee not servant of Administration.	Commissioner of Public Works.	General Manager, with approval of resident magistrate, if licensee not servant of railways.	General Manager.
Kind of liquor to be sold..	Any.	Any.	Any.	Any.
To whom	Persons lawfully using the station premises for railway purposes or taking meals.	Any one, subject to discretion of Commissioner	Persons taking meals or lawfully using the station premises for railway purposes.	Any one.
In what quantity ..	No provision.	No provision.	No provision.	No provision.
Where to be consumed..	No provision.	No provision.	No provision.	No provision.

Days and hours of sale ..	Sunday, Christmas Day, and Good Friday, during meals to persons taking meals, and 15 minutes before departure or after arrival of long-distance trains to passengers. Other days, no limits.	If Commissioner, any time; if lessee, on Sunday, Christmas Day, and Good Friday, at terminal station, not at all at other stations while train is in; on other days, a reasonable time before or after trains arrive or leave.	Sunday, Christmas Day, Good Friday, and election day; within 15 minutes after arrival or before departure of long-distance train, to passengers; and during meals to persons taking meals. Other days, no limits.	Usual bar hours; and also "for the convenience of passengers", at such reasonable hours in addition, as the General Manager may fix.
Special conditions ..	Liable to cancellation at any time by General Manager.	Liable to cancellation at any time by Commissioner.	Liable to cancellation at any time by General Manager; Lieutenant-Governor may impose conditions as to times and persons.	Liable to cancellation at any time by General Manager.
Statutes	Tr. No. 8 of 1906, sec. 6.	C.C. No. 28 of 1883, sec. 17; No. 25 of 1891, sec. 24; No. 28 of 1898, sec. 1; No. 44 of 1902.	O.R.C. No. 10 of 1907, secs. 1, 2.	N. No. 38 of 1898, secs. 19–22.
Name of licence ..	*No Licence to Sell on Trains; an Exemption.*	*No Name.*	*No Name.*	(*No Provision.*)
Who may hold it ..	Person authorized by Commissioner.	Commissioner of Public Works, or Commissioner, Central South African Railways.	Persons authorized by Lieutenant-Governor.	—
By whom granted ..	—	No grant required.	Lieutenant-Governor.	—
Kind of liquor to be sold ..	Any.	Any.	Any.	—
To whom	Passengers on trains.	No provision.	Passengers on trains on which meals are supplied.	—
In what quantity ..	By retail.	No provision.	By retail.	—
Where to be consumed ..	No provision.	No provision.	No provision.	—
Days and hours of sale ..	No provision.	At any time.	No provision.	—
Special conditions ..	Such conditions as the Governor may approve of.	In refreshment cars, subject to such regulations as may be promulgated.	Except as to applications, subject to the provisions of O.R.C. No. 8 of 1903.	—
Statutes	Tr. No. 32 of 1902, sec. 2 (*b*).	C.C. No. 44 of 1902; No. 8 of 1903.	O.R.C. No. 8 of 1903, sec. 2 (*b*) (2); No. 10 of 1905, sec. 9 (1).	—
Name of licence ..	(*No Provision for Sale on Shipboard.*)	*No Licence; an Exemption.*	(*No Provision.*)	*No Licence; an Exemption.*
Who may hold it ..	—	Master of the steamship or any person authorized by him.	—	Master of a vessel in the inner harbour.
By whom granted ..	—	No grant required.	—	No grant required.
Kind of liquor to be sold ..	—	Any.	—	Duty-paid liquor freed by the customs for the purpose.
To whom	—	Passengers in the ship.	—	Passengers bound neither from nor to Natal.
In what quantity ..	—	No provision.	—	No provision.
Where to be consumed ..	—	No provision.	—	No provision.
Days and hours of sale ..	—	No provision.	—	No provision.
Special conditions ..	—	On board a steamship in dock or territorial water.	—	On board the vessel.
Statutes	—	C.C. No. 28 of 1898, sec. 11.	—	N. No. 38 of 1896, sec. 70.

METHODS FOR THE SALE OF LIQUOR IN THE SOUTH AFRICAN COLONIES—(*continued*).

	Transvaal.	Cape Colony.	Orange River Colony.	Natal.
Name of licence ..	*Auctioneer.*	*Auctioneer.*	*Auctioneer.*	(*No Provision.*)
Who may hold it ..	Individual, partnership, or company.	Individual, partnership, or company.	Individual, partnership, or company.	—
By whom granted ..	Receiver of Revenue as a matter of course.	Civil Commissioner as a matter of course.	Receiver of Revenue as a matter of course.	—
Kind of liquor to be sold ..	Property of a licensed dealer.	Property of a licensed dealer, wine or brandy farmer.	Any one.	—
To whom	Any one.	Any one.	Any one.	—
In what quantity ..	Not less than 2 gallons in cask, 12 reputed quarts, or 24 reputed pints in bottles.	Not less than 5 gallons in cask, 12 reputed quarts, or 24 reputed pints in bottle.	Not less than 2 gallons in cask, 12 reputed quarts, or 24 reputed pints in bottle.	—
Where to be consumed ..	No provision.	No provision.	No provision.	—
Days and hours of sale ..	No provision.	No provision.	No provision.	—
Special conditions ..	Must be sold by auction on the premises of the licensed dealer to whom the liquor belongs.	Must be sold by auction on the premises of the licensed dealer or on the property of the farmer to whom the liquor belongs.	Must be sold by auction on the premises of the licensed dealer to whom the liquor belongs.	—
Statutes	Tr. No. 32 of 1902, sec. 2 (*a*) (4).	C.C. No. 28 of 1883, secs. 2 (6) and 9.	O.R.C. No. 8 of 1903, sec. 2 (*a*) (4).	—
Other exemptions ..	Sales of perfume, etc.	Sales of perfume, etc.	Sales of perfume, etc.	Sales of perfume, etc.
	Sales by chemists, etc., for medicinal purposes.	Sales by chemists, etc., for medicinal purposes.	Sales by chemists, etc., for medicinal purposes.	Sales by chemists, etc., for medicinal purposes.
	Sales by sheriffs, etc., by order of court; and customs officers in the course of duty.	Sales by sheriffs, etc., by order of court; and customs officers in the course of duty.	Sales by sheriffs, etc., by order of court; and customs officers in the course of duty.	Sales by sheriffs, etc., by order of court.
	Sales by caterer to Houses of Parliament.	Sales by caterer to Houses by Parliament.	—	Sales by caterer to Houses of Parliament.
	Army canteens.	—	Army canteens.	Army, volunteer, and police canteens.
	Tr. No. 32 of 1902, sec. 2; No. 8 of 1906, sec. 2.	C.C. No. 28 of 1883, sec. 2.	O.R.C. No. 8 of 1903, sec. 2.	N. No. 38 of 1896, sec. 5.

ANNEXURE No. 8.

ORDINANCE No. 30 OF 1902.

Whereas it is desirable that the Commission appointed under Government Notice No. 463 of 1902 should have powers conferred on it to compel the attendance of witnesses and the production of documents;

Be it enacted by the Lieutenant-Governor of this Colony with the advice and consent of the Legislative Council thereof as follows:—

1. The Commission appointed under Government Notice No. 463 of 1902 to inquire into and report on the Johannesburg Insanitary Area Improvement Scheme shall have for the purposes of its inquiry the powers of the Supreme Court to summon witnesses; to call for the production of and grant inspection of books and documents; and to examine witnesses on oath, such oath to be administered by the Chairman.

Summons for the attendance of witnesses or the production of documents may be in the form given in the Schedule to this Ordinance and shall be signed by the Chairman or Secretary to the Commission and served in the same manner and by the same officer as if it were a summons issued by the resident magistrate of the district in which the witness resides.

2. All persons summoned to attend and give evidence before the said Commission or to produce books and other documents at any of its sittings shall be bound to obey the summons served on them; and any person refusing or omitting without sufficient cause to attend and give evidence or to produce books and documents in his possession or under his control mentioned or referred to in the summons served on him at any sitting of the said Commission when summoned to do so shall be liable to a penalty not exceeding fifty pounds to be recovered in the Court of Resident Magistrate for the district and in default of payment to imprisonment with or without hard labour for a period not exceeding three months; provided always that every person summoned to give evidence or produce books and documents shall be entitled to all the privileges to which a witness summoned to give evidence or produce books or documents before the Supreme Court is entitled.

3. Any witness who shall after being duly sworn wilfully give false evidence before the said Commission concerning the subject matter of inquiry shall be guilty of perjury and shall be liable to be prosecuted and punished accordingly.

4. Every witness who shall attend before the said Commission and shall refuse to answer or to answer fully and satisfactorily to the best of his knowledge and belief all questions put to him by or with the concurrence of the Commission; and every person who shall at any sitting of the Commission wilfully insult any Commissioner or wilfully interrupt the proceedings at such sitting shall be liable to a penalty not exceeding fifty pounds to be recovered at the suit of the Public Prosecutor in the Court of the Resident Magistrate for the district.

5. The Lieutenant-Governor may by notice in the *Gazette* confer the powers jurisdiction and privileges under this Ordinance *mutatis mutandis* on any Commission appointed by him to make any public inquiry.

6. This Ordinance may be cited as the Commissions Powers Ordinance 1902.

SCHEDULE.

Summons to Witnesses.

To A.B. (name of person summoned, and his calling and residence if known).

You are hereby summoned to appear before the Commission appointed by the Governor, under Government Notice No. 463 of 1902, to inquire into and report on the Johannesburg Insanitary Area Improvement Scheme, at..... (place), upon the.....day of....., 190..., at.....o'clock, and to give evidence respecting such inquiry (if the person summoned is to produce any documents, add). And you are required to bring with you..... (specify the books, plans, and documents required).

Given under the hand of the Chairman or Secretary of the Commission, this .....day of.....190...

ENTIONS OF ORDINANC

ANNEXURE No. 9.

D PRETORIA.

THE PERIOD FROM 1ST JULY, 1

AREA: TRANSVAAL COLONY.

RETURN SHOWING TOTAL CONTRAVENTIONS OF ORDINANCE 32 OF 1902 DURING FINANCIAL YEAR 1ST JULY, 1908, TO 30TH JUNE, 1909.

	1906–07.					1908–09.					Year 1908–09.			
			Comparison			Comparison with preceding Year.								
	Cases Reported.	Persons Convicted.	Whites.	Increase.		Increase.	Decrease.	Coloured.	Increase.	Decrease.	Cases Reported.	Persons Convicted.	White Convicted.	Coloured Convicted.
B-	24	13	13	2	–	—	7	—	—	—	37	23	23	—
D-	7737	6057	1430	—	3	193	—	6011	1501	—	9388	7712	1542	6170
N-	547	647	—	—	–	—	—	589	—	153	574	613	—	613
P4	754	750	—	—	–	—	—	1297	355	—	1654	1626	—	1626
P-	1072	1055	—	—	–	—	—	1185	195	—	1298	1259	—	1259
S-	32	19	16	6	–	1	—	—	—	—	19	6	6	—
W	590	509	509	85	–	—	149	—	—	—	590	596	596	—
H-	2	6	6	6	–	—	3	—	—	—	7	8	8	—
L-	76	65	59	—	–	4	—	—	—	—	31	27	27	—

RETURN SHOWING TOTAL CONTRAVENTIONS OF ORDINANCE No. 32 OF 1902.

ANNEXURE No. 9.

AREA: JOHANNESBURG, RAND, AND PRETORIA.

RETURN SHOWING TOTAL CONTRAVENTIONS OF ORDINANCE No. 32 OF 1902 DURING THE PERIOD FROM 1ST JULY, 1903, TO 30TH JUNE, 1909.

	1903-04.								1904-05.								1905-06.								1906-07.							
	Comparison with preceding Year.								Comparison with preceding Year								Comparison with preceding Year.								Comparison with preceding Year							
	Cases Reported.	Persons Convicted.	Whites.	Increase.	Decrease.	Coloured.	Increase.	Decrease.	Cases Reported.	Persons Convicted.	Whites.	Increase.	Decrease.	Coloured.	Increase.	Decrease.	Cases Reported.	Persons Convicted.	Whites.	Increase.	Decrease.	Coloured.	Increase.	Decrease.	Cases Reported.	Persons Convicted.	Whites.	Increase.	Decrease.	Coloured.	Increase.	Decrease.
Breach of Licence	15	7	7	—	—	—	—	—	10	7	7	—	—	—	—	—	14	11	11	4	—	—	—	—	24	13	13	2	—	—	—	—
Drunkenness	6347	6303	3598	—	—	2705	—	—	7189	5530	1828	—	1770	3702	997	—	8508	6627	1816	—	12	1811	1103	—	7737	6057	1430	—	386	4627	—	184
Natives selling to Natives ...	336	316	—	—	—	316	—	—	521	519	—	—	—	519	203	—	616	638	—	—	—	638	119	—	547	647	—	—	—	647	9	—
Possession of Kaffir Beer ...	1062	952	—		—	952	—	—	729	731	—	—	—	731	—	221	533	537	—	—	—	537	—	194	754	750	—	—	—	750	213	—
Possession of other Liquor ..	718	688	—	—	—	688	—	—	1089	1020		—	—	1020	332	—	1536	1528	—	—	—	1528	508	—	1072	1055	—	—	—	1055	—	473
Sales without Licence	12	10	10	—	—	—	—	—	11	7	7	3					16	10	10	3	—	—	—	—	32	19	16	6	—	3	3	—
Whites selling to Natives ...	383	359	359	—	—	—	—	—	161	123	123	64	—	—	—	—	159	424	124	1	—	—	—	—	580	509	509	85	—	—	—	—
Illicit Distillation	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	2	6	6	6	—	—	—	—
Liquor Law Amendment Ordinance	—	—	—	—		—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	76	65	59	—	—	6	—	—

	1907-08.								1908-09								Year 1908-09			
	Comparison with preceding Year.								Comparison with preceding Year											
	Cases Reported.	Persons Convicted.	Whites.	Increase.	Decrease.	Coloured.	Increase.	Decrease.	Cases Reported.	Persons Convicted.	Whites.	Increase.	Decrease.	Coloured.	Increase.	Decrease.	Cases Reported.	Persons Convicted.	White Convicted	Coloured Convicted
Breach of Licence	30	19	19	6	—	—	—	—	18	12	12	—	7	—	—	—	37	23	23	—
Drunkenness	6987	5677	1167	—	263	1510	—	117	8973	7371	1360	193	—	6011	1501	—	9388	7712	1542	6170
Natives selling to Natives ...	616	742	—	—	—	742	95	—	547	589	—	—	—	589	—	153	574	613	—	613
Possession of Kaffir Beer ...	939	942	—	—	—	942	192	—	1300	1297	—	—	—	1297	355	—	1654	1626	—	1626
Possession of other Liquor ..	1014	930	—	—	—	930	—	65	1208	1185	—	—	—	1185	195	—	1298	1259	—	1259
Sales without Licence	9	5	5		14	—	—		8	4	4	4	1	—	—	—	19	6	6	—
Whites selling to Natives ...	721	725	725	216	—	—	—		564	576	576	—	149	—	—	—	590	596	596	—
Illicit Distillation	5	11	11	5	—	—	—		6	8	8	—	3	—	—	—	7	8	8	—
Liquor Law Amendment Ordinance	26	23	23	—	42	—	—		29	27	27	1	—	—	—	—	31	27	27	—

AREA TRANSVAAL COLONY

RETURN SHOWING TOTAL CONTRAVENTIONS OF ORDINANCE 32 OF 1902 DURING FINANCIAL YEAR 1ST JULY, 1908, TO 30TH JUNE, 1909

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